DOCUMENT RESUME

ED 473 178 CE 084 397

AUTHOR	Gow, Neil
TITLE	The Three Spheres of Government in Australia. Civics and Citizenship Learning Circle Kit.
INSTITUTION	Adult Learning Australia, Inc., Jamison.
SPONS AGENCY	Australian Dept. of Employment, Education, Training and Youth Affairs, Canberra.
REPORT NO	No-2
ISBN	ISBN-0-949145-20-3
PUB DATE	2001-00-00
NOTE	115p.; This version printed from the CD-ROM and consists of the session notes only. For Kit 1, see CE 084 396. Funded under the Discovering Democracy programme.
AVAILABLE FROM	Adult Learning Australia, PO Box 308, Jamison Centre, ACT 2614 (Kit: $27 Australian; CD-ROM: $10 Australian). E-mail: info@ala.asn.au; Web site: http://www.ala.asn.au.
PUB TYPE	Guides - Classroom - Teacher (052)
EDRS PRICE	EDRS Price MF01/PC05 Plus Postage.
DESCRIPTORS	Adult Education; Citizenship; *Citizenship Education; Civics; Democracy; Developed Nations; *Federal Government; Federal State Relationship; *Federalism; Foreign Countries; Futures (of Society); Governance; *Government Role; Governmental Structure; Instructional Materials; Learning Activities; *Local Government; *State Government; States Powers
IDENTIFIERS	*Australia; Learning Circles

ABSTRACT

This kit, the second of four learning circles on civics and citizenship, explores Australia's federal system of government and the three spheres of government. Introductory materials include lists of 53 print resources, 47 Internet sites, and 7 videos and CDs; and a glossary. Session guides are provided for six sessions: The Three Spheres of Government; Local Government; State and Territory Government; The Federal System; Citizens and Intergovernment Relations; and The Future of the Federal System. Components of each session guide include the following: (1) an introduction that outlines the objective and aims and lists suggested activities in the session, background documents provided, and resources; (2) the suggested activities with discussion, suggested activities, optional extra activities, and case studies highlighted in block format; and (3) the background documents. (YLB)

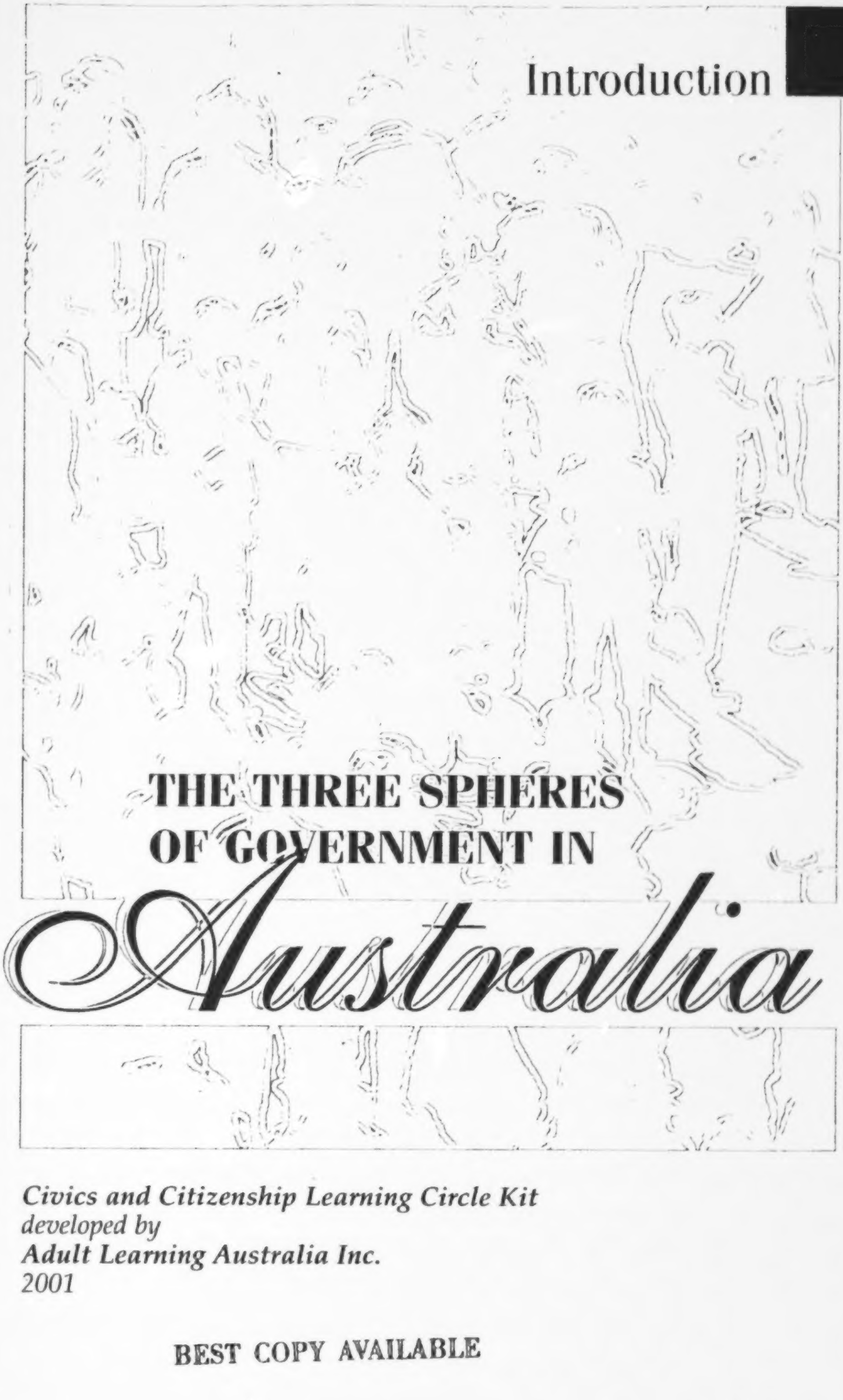
Reproductions supplied by EDRS are the best that can be made
from the original document.

ED 473 178

ALA

DISCOVERING
DEMOCRACY

Introduction



THE THREE SPHERES OF GOVERNMENT IN *Australia*

Civics and Citizenship Learning Circle Kit
developed by
Adult Learning Australia Inc.
2001

PERMISSION TO REPRODUCE AND
DISSEMINATE THIS MATERIAL HAS
BEEN GRANTED BY

M. Bates

TO THE EDUCATIONAL RESOURCES
INFORMATION CENTER (ERIC)

1

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION
CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

- Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

BEST COPY AVAILABLE

CE084397

• Contents of Introductory Folder

Contents of this kit 2

Resource materials 2

Acknowledgements 3

Preface 4

Discovering Democracy Programme 6

How to use this kit 9

Resources beyond the kit 10

Printed material 10

Internet sites 12

Videos and CDs 14

Glossary of terms 15

Evaluation form 16

This project was funded under the Discovering Democracy programme administered by the Commonwealth Department of Education, Training and Youth Affairs.

Published by the Adult Learning Australia Inc
PO Box 308
Jamison Centre ACT 2614

Tel: 02 6251 7933
Fax: 02 6251 7935

Email info@ala.asn.au
URL http://www.ala.asn.au

Copyright © Commonwealth of Australia, 2001

***The Three Spheres of Government* is Commonwealth copyright. It may be reproduced in whole or in part for study or training purposes, subject to the inclusion of an acknowledgment of the source and it not being used for commercial sale or use. Reproduction for purposes other than those indicated requires the written permission of the Commonwealth Department of Education, Training and Youth Affairs, GPO Box 9880, Canberra City, ACT, 2601.**

The views expressed here are those of the author and do not necessarily represent the views of the Commonwealth Department of Education, Training and Youth Affairs.

SCIS Cataloguing-in-publication data:

The Three Spheres of Government

1. Government—Study and Teaching
2. Democracy—Study and Teaching
3. Australia—Politics and Government
4. Learning Circles

ISBN 0-949145-20-3

Written by Neil Gow

Designed by Looking Glass Press

Discovering Democracy logo design by Miller Street Studio

Printed in Australia by Better Printing Services

• Contents of this kit

ABC to Learning Circles booklet

Introductory folder

Six session guides

Session One: The Three Spheres of Government

Session Two: Local Government

Session Three: State and Territory Government

Session Four: The Federal System

Session Five: Citizens and Inter-government Relations

Session Six: The Future of the Federal System

• Resource materials

The ABC to Learning Circles (ALA)

A Nation at Last (Dept Senate)

Australian Constitution (AGPS)

Constitutional Referendums (AEC)

Electoral Systems of Australia's Parliaments and Local Government (AJRC)

Constitutional Reform—A Local Government View (ALGA)

Declaration on Role of Australian Local Government (ALGA)

History in the Marking (Sun Herald)

Parliament and The Government (PEO)

The Three Levels of Government (PEO)

Australia: It's what we make it (National Council for the Centenary of Federation)

What Bugs Raoul? (Film Australia)

• Acknowledgments

We gratefully acknowledge the assistance given by members of the project Advisory Committee, by those organisations which have provided resource materials for the Kit, and by all those who have received and commented on earlier drafts of the Kit.

Advisory Committee Members

Mr Paul Anderson
Director Electoral Education, Australian Electoral Commission

Mr John Carter
Director, Parliamentary Education Office (to January 1998)

Dr Alastair Crombie
Executive Director, Adult Learning Australia

Ms Ellen Davis-Meehan
NSW Council of Adult & Community Education

Organisations

Mrs Betty Dawson
Network of Women in Further Education

Ms Penny Gould
Quality Schooling Branch, Department of Education, Training and Youth Affairs

Mr Brenton Holmes
Director, Parliamentary Education Office (from January 1998)

Ms Wendy Michaels
Senior Policy Officer, Australian Local Government Association

Dr Roger Morris
President, Australian Association of Adult and Community Education

Ms Rosemary Neal
National Link of Neighbourhood Houses and Learning Centres

Ms Marian Schoen
Executive Director, Constitutional Centenary Foundation

Ms Sam Thomas
Director, NSW Board of Adult and Community Education

Organisations supplying resource materials

Australian Electoral Commission
(Contact details—State/Territory centres and elect offices)

Constitutional Centenary Foundation

Australian Local Government Association

Parliamentary Education Office

Department of the Senate

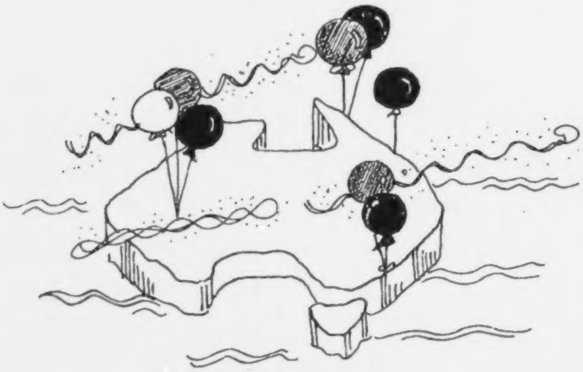
State Parliamentary Education Offices

- Australian Capital Territory, C/- Legislative Assembly, Phone: 02 6205 3016 Fax: 02 6205 3109
- New South Wales, C/- Parliament House, Phone: 02 9230 2334, Fax: 02 9230 3033
- Northern Territory, C/- Library, Phone: 08 8946 1456, Fax: 08 8981 2528
- Queensland, C/- Parliament House, Phone: 07 3406 7917, Fax: 07 3229 4439
- South Australia, C/- Parliament House, Phone: 08 8237 9386, Fax: 08 8212 5792
- Tasmania, C/- Parliament House, Phone: 03 6233 6253, Fax: 03 6223 3964
- Victoria, C/- Parliament House, Phone: 03 9651 8624, Fax: 03 9654 5284
- Western Australia, C/- Parliament House, Phone: 08 9222 7259, Fax: 08 9321 6197

• Preface

This learning circle has a principal aim: to explore Australia's federal system of government.

The decision of the people of the six Australian colonies, made by referenda in 1898 and 1899, to form a federation and create a new level of national government, was the product of decades of visions, deals, miracles and accidents. The pageantry of the public celebrations and ceremonies of the first Australia Day in 1901 promoted the message that a new nation—the Commonwealth of Australia—was being formed with a new constitution and institutions. This learning circle kit is designed to foster an interest in the achievement of Australian federation and to consider the outlook for our federal system.



The detailed arrangements of the Constitution to overcome the differences between the colonies, which became states from 1901, had been the most difficult sections of the Constitution to decide. The federal fathers knew that the annoying customs houses on the intercolonial borders, which delayed travellers and collected duties on goods passing between the colonies, had to be abolished if Australian commerce was to develop. They also knew that customs duties on goods imported from overseas had to be uniform throughout the colonies and that such duties should be collected by a national customs service. Rivers flowed between colonies, defying the man-made borders, as did railways, and these features needed at the least co-ordination or even control by the new Commonwealth government.

This learning circle kit is designed to encourage its users to engage with the Australian Constitution on these federal issues. Many sections of the Constitution have been given their detail by legislation and some changed by referenda. This allows learning circles to look at how our Constitution has worked, and how its principles have held up in practice.

The kit also encourages learning circle participants to consider the current workings of our federal system. The first learning circle kit produced under the Discovering Democracy programme for the adult and community education sector—*The Governance of Australia*—had a detailed look at our national governance. This second kit provides an opportunity to learn about the other spheres of government in Australia—the State and Territories and local government. Participants are encouraged to use the discussion notes and resources of the kit, which are necessarily general, to come to grips with the governance of their own State/Territory and their local government area.

These are the areas—especially at the local level—where people have a more direct relationship with government. These are the spheres of government that provide, change or withdraw local services in waste collection, roads, schools, hospitals, sporting and recreation facilities. They control what can be done with one's house and land and neighbourhood areas. This is a rich lode for a learning circle. Mining it can lead to increased local awareness and even local action to support or oppose local developments. It is an area where people are more likely to feel empowered to make a difference. Contributing to a debate about the use of public space in a suburb or country area can be more immediate than discussing Commonwealth taxation reform, even though it may be less important in the long run to the way we are governed and our quality of life.

The kit leads participants to study how the Australian federal system has developed since federation and how it is operating now. This is done in two sessions. Session four encourages participants to look at the elements of the federal system. Thus the Senate, High Court, Council of Australian Governments, Premiers Conferences, Ministerial Councils, the Commonwealth Grants Commission and other intergovernmental agencies get a mention. In session five a number of case studies are presented to show how this system works. These case studies are designed to encourage learning circles to look at how the three spheres of government affect their own local area as all localities have contemporary issues which can be explored from this perspective.

Finally, the kit encourages its users to consider the future of our federal system in Australia.

Is it working as well as possible? Are the personalities involved more important than the structures? Are there different attitudes which could make our federal system more productive for Australian citizens? Has the process of reform to avoid duplication and increase efficiency worked and will its extension achieve a better federal system? Are there better structures which produce less hostility between the Commonwealth, State/Territory and local government bodies involved? Will these produce less hostility to our federal institutions and politicians from individual voters? Are there other possibilities open to us? This last session encourages the learning circle towards some imaginative speculation.

After experiencing these aspects of the kit we hope that all participants will have enjoyed their journey though Australia's Constitution and federal system and will have developed their understanding of both. This learning can then be put to whatever use the group or its individual members decide. That could include continuing their learning circle activities as part of their lifelong learning.

Neil Gow
Project Co-ordinator

• Discovering Democracy Programme

Extract from a Ministerial Statement by the Hon. Dr David Kemp MP, then Minister for Schools, Vocational Education and Training, 8 May 1997.

> *As Australia approaches the centenary of Federation, and the Constitutional Convention to be held later this year, the Government is pleased to announce a national programme of Civics and Citizenship Education activities—Discovering Democracy.*
>
> *The Government is committed to ensuring that all students have opportunities to learn about the system of government in Australia.*
>
> *Over the next four years, the Government has allocated $17.5 million to raise the levels of civic knowledge of students through the Civics and Citizenship Education programme, which will involve the four sectors of education—schools, higher education, vocational education and training, and adult and community education.*

The four themes of the programme are: Who Rules? Law and Rights, The Australian Nation and Citizens and Public Life.

Australia's democratic tradition

We are the heirs of one of the most remarkable democratic initiatives of the nineteenth century. Just after 1850, hundreds of thousands of people began to pour into this country in the great gold rushes. Among them were many who were frustrated at the slow development of democracy in Britain and who were determined to establish a new fully democratic society in their new land. They joined with and gave momentum to those already pushing towards representative institutions of government.

Australia provided these people with unique opportunities to translate their reforming spirit and egalitarian principles into the democratic framework we enjoy today. Realising that democracy required educated citizens and a moral and ethical society they not only looked for gold, but also built schools, churches and universities.

An impressive record in democratic and social progress began: Australia was one of the first countries in the world to abolish the property requirement for voting for the popular assembly, to pay salaries to members of Parliament (so that those without independent incomes could seek office), to provide public education and age pensions, to introduce the eight-hour day, and to establish the secret ballot—known throughout the world as the Australian ballot—so that everyone could cast their vote free from intimidation. By the second half of last century, Australia had some of the most radically democratic political institutions in the world.

At the time of Federation in 1901 men's right to participate fully in the political process in Australia was generally accepted. Women won the right to vote in Commonwealth elections in 1902. At the same time, however, the *Commonwealth Franchise Act of 1902* specifically excluded Aboriginal Australians. Aboriginal Australians did not gain Australian citizenship (including the right to vote) for more than half a century.

The dispossession of indigenous people was largely unquestioned in 1901. In the years since it has been the democratic idea that has forced the recognition that this dispossession has consequences for all Australians today. It has been the evolution of the belief that all people have equal rights, are entitled to equality before the law, and have equal responsibilities that dominates our response to the legacy of this dispossession today.

We have, after long debate, accepted that if people are equal, regardless of their background or beliefs, Australia as a democracy cannot have anything other than an immigration policy that does not discriminate on the basis of race. If everyone has equal rights, we cannot have one set of laws for men and another for women. In a democratic Australia there is no place for discrimination against the original inhabitants of this country—the Aboriginal people. If everyone is equal before the law, then the laws which govern our economic life, as our social life, must apply to everyone equally and not create special privileges for some at the expense of others. As befits the heirs of those radical democrats who set up our first democratic institutions, much of our political debate and the policies of government can be understood as a working through of the implications of our commitment to democracy.

The development of Australian democracy is a tribute to our civil nature and cooperation. Australian civil society has been built around the family, voluntary associations (civic, political, and religious) and small enterprises. Our history contains little evidence of revolution, public riots and violence. One of the great migration programmes of the last century had been accomplished peacefully and in a manner which has demonstrated what is possible in a democratic ethos. Our formal education system is a vital means of maintaining the civil society and also in developing and enhancing our democratic system as we move into the next millennium. Effective democracy is not a static, inflexible concept, but a dynamic, active principle that needs to be continuously cultivated, adapted and revitalised.

In this century 100,000 Australians sacrificed their lives to defend their democratic way of life against militarism and totalitarianism—and to help other nations defend their democracy.

Over its history Australian citizenship and national identity has evolved from one developed within the context of the British Empire to one focused on an independent Australian nation. Its democratic tradition has allowed Australia to demonstrate the ability of peoples from different origins and cultures to live peacefully together. Today this identity continues to evolve.

Civics and Citizenship Education—Discovering Democracy

The invigoration of Australian citizenship requires an appropriate combination of civics education and citizenship education. Civics education involves the knowledge that is a necessary precondition for informed and responsible citizenship. Citizenship education supports the skills and capacities that enable citizens to take part voluntarily and responsibly in the life of civic society and in the governance of their political communities.

Civics and citizenship education is more than just teaching about our political frameworks. Like democracy, citizenship is an ongoing participative process, not a static one. It does require an understanding of our history and institutions which then allows for the ability to comprehend and reflect. Without these skills and involvement, citizens cannot effectively deal with proposed changes or make the informed choices needed for a healthy democratic life.

The Commonwealth Government's civics and citizenship education programme, *Discovering Democracy,* which was extended to 2004 with an additional $13.4 funding in the 2000–2001 Budget is guided by the Civics Education Group, which provides advice to the Minister for Education, Training and Youth Affairs on all aspects of the programme.

Members of the Civics Education Group

Dr John Hirst
Chair (Reader in History at La Trobe University)

Professor Stuart Macintyre
(Ernest Scott Professor of History at the University of Melbourne)

Dr Ken Boston
(Director-General of the New South Wales Department of School Education)

Ms Susan Pascoe
(Coordinating Chairperson, Policy, Catholic Education Office, Melbourne)

Professor Greg Craven
(Foundation Dean and Professor of Law at Notre Dame University)

(Dr Kevin Donnelly is the consultant to the programme)

The Adult and Community Education (ACE) Sector Learning Circle Discovering Democracy Programme

Material for four learning circle kits will be produced for the ACE sector. Adult Learning Australia Inc. (ALA) has been contracted to produce the first two kits—The Governance of Australia and The Three Spheres of Government. Further details can be obtained on ALA's web site at http://www.ala.asn.au. Two more kits, The Australian Nation and Citizens and Public Life are also being produced.

Each kit includes a general booklet on Learning Circles, session guides for six meetings and a range of resources which can readily be used to inform those discussions. In addition, there are lists of organisations, web sites and additional printed resources material which groups may wish to access.

• How to use this kit

This kit has been developed to support learning circles wishing to explore issues about the three spheres of government in Australia. It is not a textbook, but offers a range of ideas for discussion, some supporting information in the discussion notes, background documents and in separate resources included in the kit. The general principles of learning circles are explained in the booklet *ABC to Learning Circles* included in the kit.

The kit is designed to cater for a range of levels of interest, time and prior knowledge. Some questions and material may seem too simple for you, other material may be too detailed or outside of your interests. Remember, we have tried to please a wide range of people throughout Australia. Use the kit as a resource for your group to discuss the things that are important to your group. It is not a curriculum to be 'learned'.

What your group decides to learn about should be democratically decided. Everyone should have access to the discussion notes and resources. These can be combined with participants' knowledge, questions and expectations to customise the use of the kit to suit your needs. Usually these will be influenced by your personal experiences and your locality as both of these impact greatly on adult learning generally and political discussions particularly.

Also, in this introductory folder there are many suggestions for additional resource material which covers printed material like books and magazines, but also include films and videos, and websites from where a wide range of information can be downloaded.

• Resources beyond this kit

Newspapers and television news and current affairs coverage are a valuable resource for this kit. It is suggested in session one that the group start a media scrapbook. Try to cover a range of media from local community newspapers and radio to the national press and TV coverage.

Printed material

General

Beresford, Quentin; Macmaster, Lorraine & Phillips, Harry (1996) *Conflict and Consensus. Politics and Law in Australia*, Longman, Melbourne (Particularly for WA senior HS course)

Evans, Raymond; Moore, Clive; Saunders, Kay & Jamison, Bryan (1997) *1901 Our Future's Past* Pan Macmillan Australia Pty Ltd

Forell, Claude (1994) *How We Are Governed* Longmans, Melbourne

Hirst, John (1998) *Discovering Democracy: Guide to Government and Law in Australia* Curriculum Corporation

Institute of Municipal Management (1996) *Charting your course: what's on the Horizon?* Parramatta, IMM

Nelson, Hank (1982) *Taim Blong Masta* ABC Sydney

O'Brien, Patrick (1995) *The People's Case. Democratic and Anti-Democratic Ideas in Australia's Constitutional Debate*, Australian Scholarly Publishing, Melbourne

Parkin, Andrew (1982) *Governing the Cities—The Australian Experience in Perspective* The Macmillan Company of Australia Pty Ltd

Saunders, Cheryl (1998) *It's Your Constitution*, The Federation Press, Sydney.

Waugh, John (1996) *The Rules—An Introduction to the Australian Constitutions*, Melbourne University Press

Local Government

Australian Local Government Guide (1998) Australian Information, Melbourne

Advisory Council for Inter-government Relations (1985) *Implications of constitutional recognition for Australian local government*, Tasmanian Government Printer, Hobart

Comparative Study on local government reform in Japan, Australia and New Zealand (1997) Sydney, Council of Local Authorities for International Relations

National Office of Local Government (1997) *Local Government National Report* Canberra Department of Transport and Regional Development

Chapman, RJK & Wood, Michael (1984) *Australian Local Government—The Federal Dimension* George Allen & Unwin Australia Pty Ltd

Dollery, Brian & Marshall, Neil (eds) (1997) *Australian Local Government—Reform and Renewal* Macmillan Education Australia Pty Ltd

Haratsis, Brian (1994) *The Australian Local Government Yearbook* Michael Haratsis Snr

Hawker, GN (1971) *The Parliament of New South Wales 1856–1965* Government Printer, Sydney

Johnstone, Peter & Kiss, Rosemary (eds) (1996) *Governing Local Communities—the future begins*, The Centre for Public Policy, University of Melbourne, Melbourne.

Knibbs, George Sir (1919) *Local Government in Australia*, Melbourne, A.J. Mullett Government Printer

Morton, Alan (1993) *Local Government—An Era of Reform* Australian Local Government Association

Munro, Angela (1988) *The Role of Local Government in a Multicultural Australia* Canberra Office of Multicultural Affairs

Power, J, Wettenhall, R and Halligan J (eds) (1981) *Local Government Systems of Australia*, AGPS, Canberra

Purdie, Donald M (1976) *Local Government in Australia: reformation or regression?* Sydney, Law Book Company

Salvaris, Michael (1996) "Local Government, Democracy and Constitutional Reform" at http://www.alga.com.au/salvaris.htm

Sydenham, Shirley (1994) *Local Government in Australia*, Macmillan Education, South Melbourne

State Government

The Nixon Report—Summary and Recommendations (Tasmania) available from Information Services Bookshop, 140 Macquarie St, Hobart

Council of Australian Governments *Competition Principles between the Commonwealth of Australia, the State of New South Wales…*

The South Australian Constitutional Advisory Council (1996) *The Distribution of Power between the Three Levels of Government in Australia*

Atkins, Ruth (1977) *The Government of the Australian Capital Territory* University of Queensland Press, St Lucia

Bennett, Scott (1992) *Affairs of State: Politics in the Australian States and Territories*, Allen and Unwin, North Sydney

Harris, C.P (1979) *Relationships between Federal and State Governments in Australia* AGPS, Canberra

Holmes, J (1977) *The Government of Victoria*, University of Queensland Press, St Lucia

Hughes, C (1977) *The Government of Queensland*, University of Queensland Press, St Lucia

Jaensch, Dean (1994) *House of Order: the Legislative Assembly of the Northern Territory 1974–1994*

Jaensch, D(1977) *The Government of South Australia*, University of Queensland Press, St Lucia

Lumb, R. D. (1991) *The Constitutions of the Australian States* University of Queensland Press, St Lucia

O'Brien, Patrick & Webb, Martyn (1991) *The Executive State. WA Inc and the Constitution*, Constitutional Publishing Company, Perth

Parker, R.S (1977) *The Government of New South Wales* University of Queensland Press, St Lucia

Sydneham, Shirley (1994) *State Government in Australia*, Macmillan Education, South Melbourne

Steketee M & Cockburn M (1986) *Wran. An Unauthorised Biography* Allen and Unwin, Sydney

Townsley, W.A. (1977) *The Government of Tasmania*, University of Queensland Press, St Lucia

The Federal System

Advisory Council for Inter-government Relations (1982) *Co-ordinating state and local government* Hobart

Intergovernmental News, A Quarterly on Commonwealth, State, Local and International Relations from the Centre for Comparative Constitutional Studies, Carlton, Vic (Ph 03-9344 5152)

Report on the Working Party on Tax Powers 4 October 1991 *Taxation and the Fiscal Imbalance between levels of Australian Government: Responsibility, Accountability and Efficiency*

Aldred, J & Wilkes, J (eds) (1983) *A Fractured Federation? Australia in the 1980s*, George Allen and Unwin, North Sydney

Craven, Gregory (ed.) (1992) *Australian Federation: Towards the Second Century*, Melbourne University Press, Melbourne

Dermody, Kathleen (1997) *A Nation at Last. The Story of Federation*, Department of the Senate, Canberra

Evans, Harry (1997) "Federalism and the Role of the Senate", paper presented at the Samual Griffith Society Conference, 7–9 March 1997

Mathews, Russell and Grewal, Bhajan (1997) *The Public Sector in Jeopardy. Australian Fiscal Federalism from Whitlam to Keating* Centre for Strategic Economic Studies, Melbourne

Mathews, Russell and Jay WRC (1997) *Federal finance: Australia's fiscal federalism from federation to McMahon* Centre for Strategic Economic Studies, Melbourne

Mullins, Anne & Saunders, Cheryl (1994) *Economic Union in Federal Systems* The Federation Press, Sydney

Saunders, Cheryl & Thomas Tony (1995) *The Australian mutual recognition scheme: a new solution to an old problem* Centre for Comparative Constitutional Studies, Carlton

Internet sites

Local government

Australian Local Government Association (ALGA):
http://www.alga.com.au

Australian Local Government Information Network (ALGIN):
http://www.algin.net.au/

Australian Local Governments:
http://www.nla.gov.au/oz/gov/local.html

Councils on the Web:
http://www.algin.net.au/cnclist.htm

International Union of Local Authorities Page:
http://world.localgov.org/

Local Government and Shires Association:
http://www.lgsa.org.au

Local Government Resource Databank:
http://www.logov.aust.com/logov/cgi-bin/link.pl

National Office of Local Government:
http://www.dot.gov.au/programs/nolg/nolghome.htm

New South Wales:
http://www.dlg.nsw.gov.au/index.htm

Northern Territory:
http://www.nt.gov.au/localgov/

Queensland:
http://www.qgd.qld.gov.au/localgovt/loc002.html

South Australia:
http://www.lga.sa.gov.au/public/visitor.htm

Tasmania:
http://www.tas.gov.au/subject/govt.htm#local

Victoria:
http://vicnet.net.au/vicnet/localgovt.htm

Western Australia:
http://www.dlg.wa.gov.au/home.htm

State and Territory Government

Australian Governments Entry Point:
http://www.nla.gov.au/oz/gov/

Legislative Assembly, Australian Capital Territory:
http://www.legassembly.act.gov.au

Legislative Assembly, Northern Territory:
http://www.nt.gov.au/lant/

Parliament of New South Wales:
http://www.parliament.nsw.gov.au

Parliament of Queensland:
http://www.parliament.qld.gov.au

Parliament of South Australia:
http://www.parliament.sa.gov.au

Parliament of Tasmania:
http://www.parliament.tas.gov.au

Parliament of Victoria:
http://www.parliament.vic.gov.au

Parliament of Western Australia:
http://www.parliament.wa.gov.au/parliament/homepage.nsf

The Federal System

Prime Minister's Homepage:
http://www.pm.gov.au

ATSIC:
http://www.atsic.gov.au

Australian Electoral Commission:
http://www.aec.gov.au

Australians for Constitutional Monarchy:
http://www.norepublic.com.au

Australia's Founding Documents:
http://www.foundingdocs.gov.au/

Australian Governments Entry Point:
http://www.nla.gov.au/oz/gov/

Australian Labor Party:
http://www.alp.org.au

Australian Local Government Association:
http://www.alga.com.au

Australian Republican Movement:
http://www.republic.org.au

Commonwealth Attorney-General's Department:
http://www.law.gov.au

Commonwealth Government entry point:
http://www.fed.gov.au

Commonwealth Parliament:
http://www.aph.gov.au

Constitutional Centenary Foundation:
http://www.centenary.org.au

Curriculum Corporation:
http://www.curriculum.edu.au/democracy/index.htm

David Moss's Australian Politics Resource:
http://www.adfa.oz.au/~adm/politics/

Democracy in Australia:
http://www.mq.edu.au/hpp/politics/y67xa.html

Democrats:
http://www.democrats.org.au

Education Australia Network:
http://www.edna.edu.au/EdNA

High Court of Australia:
http://www.hcourt.gov.au

Liberal Party:
http://www.liberal.org.au

National Party:
http://www.ozemail.com.au/~npafed/

Parliamentary Education Office:
http://www.peo.gov.au

Women's Constitutional Convention:
http://www.womensconv.dynamite.com.au/
index.htm

Videos and CDs

Citizens not Consumers, Municipal Association of Victoria, 1998

A Fair Innings ABC 1968

The Highest Court 1998 A Film Art Doco Production

On Council: local democracy at work 1989, Melbourne Local Planning Pty Ltd

Rats in the ranks,1995, ABC

Strategic Management of Change, Mentor Vision, Adelaide 1994

What Bugs Raoul? AEC/Film Australia

• Glossary of terms

Alderman/Councillor	An elected member of a local government authority (council).
Concurrent powers	Those powers, derived from the Australian Constitution, exercised by both Commonwealth and State governments.
Federalism	A system of government which combines self-rule with shared rule, in which power is shared between a central government and more local levels of government. Australia has a federal system, with the central government in Canberra and more local levels of government in the States.
Managerialism	A management style that uses corporate strategies which direct resources to the efficient achievement of pre-determined outcomes in order to achieve increased performance without necessarily increasing resources.
Municipality	Town or district with local self-government.
Plural voting	Where eligible voters owning property in more than one electorate are entitled to a vote in each.
Royal Commission	A group of people commissioned by the Parliament to enquire into an issue, and report their findings back to Parliament.
Shire.	Rural local government area.
Special Purpose Payments (SPP)	Payments made by the Commonwealth government under section 96 of the Australian Constitution.
Ward	A local government electoral division
Zonal System	An electoral system in which the State is divided into zones with varying quotas for the return of members. Queensland's electoral system was based on a zonal system from 1949 to 1989.

• Evaluation form

To Civics Learning Circles Project, Adult Learning Australia Inc., PO Box 308, Jamison Centre, ACT, 2614.
Phone: 02-6251 7933 Fax: 02-6251 7935 e-mail info@ala.asn.au

Group Registration Details: ....

....

☐ Please register our group for further civics learning circles

Address: ....

....

Contact person for correspondence: ....

Address and phone number (if different to above): ....

Expectations of the group at the beginning: ....

....

....

What were the best aspects of the kit? ....

....

....

What could have been better about the kit? ....

....

....

How did you modify and/or extend the kit? ....

....

....

What were the outcomes for the group/individual? ....

....

....

Please include some comments from members about your learning circle: ....

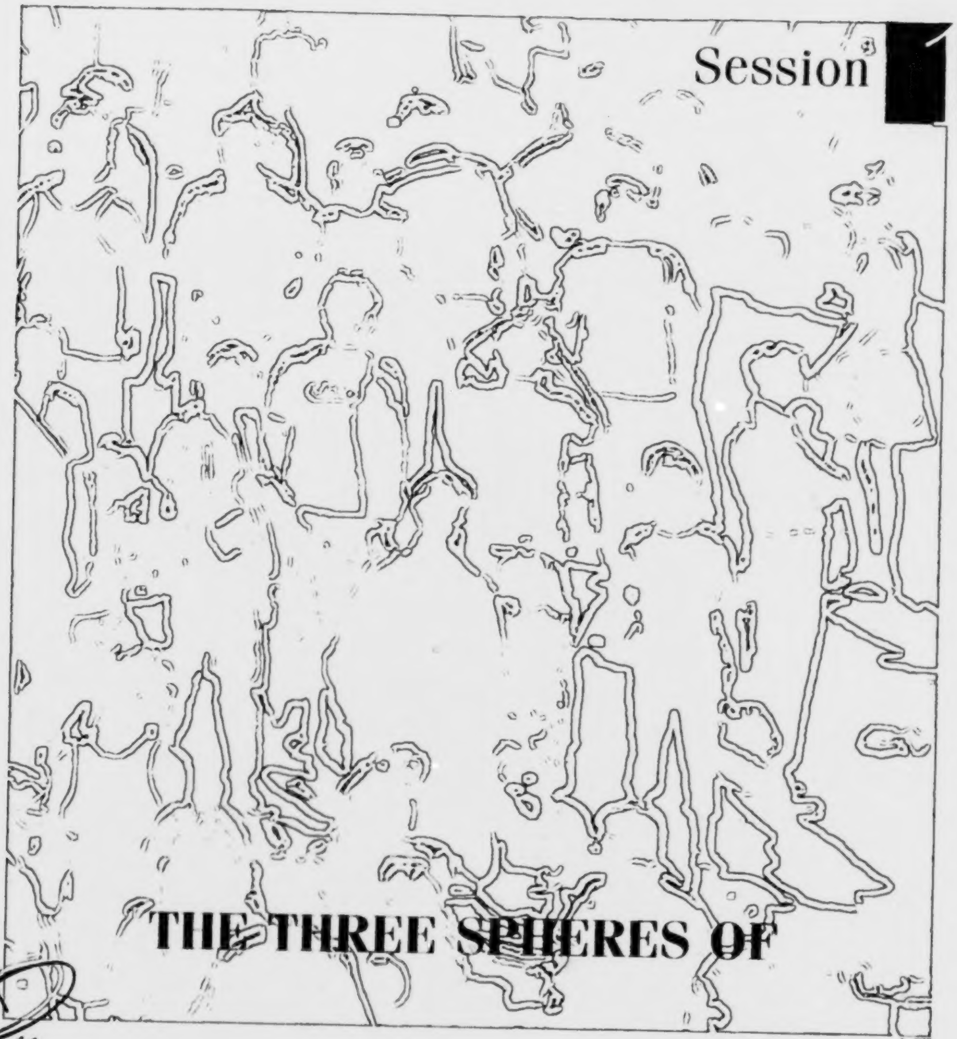
....

Thank you for taking the time to complete this evaluation

ALA

DISCOVERING DEMOCRACY

Session 1



THE THREE SPHERES OF

Government

BEST COPY AVAILABLE

• Introduction

The aim of this first session is for members of your group to get to know each other and the interests, experiences and expectations you each bring to the learning circle programme. The session guide invites you to discuss and establish some group goals and procedures to help your meetings run smoothly and productively. It also introduces some information about the three spheres of government in Australia and how they and the federal system impact on the lives of individual citizens.

In particular the activities are designed to help you consider and discuss:

- your own backgrounds, experiences and reasons for joining the group;
- common objectives for the group;
- some basic guidelines for learning circle sessions;
- the issues arising out of *Kit One—The Governance of Australia;*
- your existing views and understandings of the subject areas and issues raised in the kit;
- the background and development of the current Australian federal system of government; and
- how the federal system of government impacts upon citizens.

The activities are only suggestions for how to spend the time of your meeting. Read the session notes and look at the resources supplied with the kit before future meetings and then decide at the beginning of the session which activities your group wishes to focus on. Use the guide and supporting material as a resource, not as a fixed programme which has to be completed.

Suggested activities

Informal interaction 2

Welcome and introductions by participants 2

Decide on proposed format (times, places etc.) for meetings 2

Introduction to learning circle guidelines and processes 2

Reviewing the kit 3

Ideas from Kit One—The Governance of Australia 3

Introductory video (17 mins) "What Bugs Raoul?" 4

Federation—achieving the three spheres of government 5

2001—the centenary of federation/the three spheres of government 6

Conclusions, evaluation, tasks for the next session 8

Resources

- Australia's Constitution
- *What Bugs Raoul?*—Australian Electoral Commission 1993
- *Three Levels of Government* pamphlet—PEO
- *A Nation at Last* pamphlet—Senate
- History in the Marking—*Sun Herald* 6 Nov 1997

• Getting started

Informal interaction

(Note: Helpful equipment—VCR equipment, name tags/labels, butcher's paper, whiteboard/ blackboard, marker pens, writing paper, pens, photocopies of sessions one and two.)

When you arrive, introduce yourself to the facilitator and introduce yourself to some others present. Check your name and contact details on the list provided by the facilitator. Complete a name tag if available. Spend some time to look through the resources provided in the kit and the other session guides.

The facilitator should make sure the video player is set up and tested! Maybe you could check this.

Have a look at the introductory notes for the kit and the introduction to session one and talk informally about which activities interest you most.

When all (or most) participants are present the facilitator should make a start.

Welcome and introductions by participants

Members of the group (including the facilitator) should introduce themselves. Explain something about yourself and your interests, why you joined the Learning Circle and what you would like to achieve from attending the sessions. If the group is a new one, you could use a more co-operative introductory activity. For example, members could talk to their neighbour for two minutes and then introduce them to the group, telling the group the most interesting thing they found out about that person.

This activity is also an opportunity for the sponsoring/organising group or people to explain how and why it became involved in promoting the Learning Circle Kit.

Decide on proposed format for meetings

This is an opportunity for participants to decide when and where they will meet and whether they wish to make regular or special arrangements for transport or refreshments during or after the meetings, who will bring equipment and other resources to the meetings, and so on.

Also participants may wish to include tours or visits as part of or instead of normal discussion meetings.

If participants wish, a contact list of all participants can be distributed so they can arrange transport, share resources and ideas for research and other information between meetings.

Introduction to learning circle guidelines and processes

The booklet *ABC to Learning Circles* has been included in all kits. This outlines the concept of learning circles as well as their organisation and roles of facilitators and other participants. Discuss how the group will use these guidelines. Some points for discussions should be:

- who will facilitate meetings, and will this job be shared?
- how will the group ensure that active listening will be encouraged?
- how will the group monitor its activities to ensure participants' expectations are being met?
- what outcomes does the group identify?

• Reviewing the kit

Although the facilitator should be very familiar with the kit prior to the first meeting, the kit should be accessible to other group members before the start of the learning circle. At least it should be on display at the first meeting.

The kits consists of four main sections:

- *ABC to Learning Circles;*
- the introductory folder for the kit;
- six discussion guide folders; and
- a collection of resources to support the group.

Have a look through all this material and see what interests you. Imagine how you are going to approach it. Are there some areas that you feel more informed about or interested in than others? How much extra work do you want to do to follow up resources mentioned in the introductory folder? Does the material in the kit meet your expectations for coming to the learning circle?

Discuss these questions as a group. This is the first discussion of your learning circle where there may be disagreement and competing ideas. Try to ensure a positive outcome for everyone present.

• Ideas from Kit One— The Governance of Australia

Some of the learning circle members may have participated in the other civics and citizenship learning circle on The Governance of Australia. Although the kits have been designed to stand alone, there are advantages in reflecting on the experiences of those people, both as learning circle members and what information and concerns they developed in that time.

If only one or two have experienced this learning circle the group may decide to do it later. Maybe you will decide to look at the material individually.

If a majority or all of the group have studied Kit One, you may wish to explore the knowledge you gained and how you wish to use it in Kit Two.

• Introductory video (17 mins) "What Bugs Raoul?"

View the video "What Bugs Raoul?" (Facilitators should view the video before the session and decide on the points which may be of interest to the group and how they can be raised in discussion.)

Note: you may wish to stop it after each section is dealt with i.e. local, state and federal. It shows the spheres as being distinctly separate, however, in reality they are overlapping and intertwined.

Sequence of the video:

- introductory noise;
- home to Kumbukna;
- airport construction noise;
- visit to local government;
- visit to state member;
- visit to federal member in Canberra; and
- return to Kumbukna and viewing of rubbish—a local government responsibility.

Discussion:

Do you identify with Raoul at any point in the story? Is he a good representation of a citizen?

Have you met your local, state and federal representatives? What do you think of their representation in the video?

Can you give examples of the impact of the areas of government mentioned in the video in your local community?

From your experience have you found a clear division of powers and responsibility between the three spheres of government?

What questions remain unanswered for you by the video? Can the rest of the group help?

Is noise a useful theme to focus on? What other themes do you think could have been used?

How well does the film convey the idea of the three spheres of government?

BEST COPY AVAILABLE

• Federation—achieving the three spheres of government

Prior to 1901 Australia was governed by colonial governments and some areas were also incorporated into local government areas under colonial legislation. The achievement of federation in 1901 added a national, Commonwealth level of government, and most of Australia was incorporated into local government areas by 1910. The three spheres of government system will be a century old in 2001.

The story of federation is sometimes told as one having an inevitable outcome, but Alfred Deakin commented after its achievement that it was gained by "a series of miracles". If it had not been achieved in 1901 but in say 1920, after communications had improved and Australia had participated in some national activities, particularly its involvement in the First World War, (and accumulated a national debt) it may have been less likely the states would have been preserved, or if they had, they might have retained less powers.

The factors that brought Australians together in a federation—common ancestry, language and culture, insecurities about their defence, frustration at customs searches and payments for travellers between colonies and a sense of Australian identity—were not shared by all colonists. Fortunately for those favouring federation, there were leaders available to promote the cause and sufficient public support to carry it forward. Of course, finally there were referenda in all colonies which voted for federation under the Constitution developed at a series of conventions in the 1890s.

Given the reality that Australia is a big country, it has been argued that a federal system is the most logical choice. Also, the diversity of governments in the three spheres may be a good democratic arrangement. The decentralisation of power satisfies the democratic criterion that power should neither be concentrated into one government, nor within that government, into the executive. Also, little time passes without elections in either the local, State or Commonwealth sphere to give voice to the people's concerns.

Discussion:

Why did the Australian colonies decide to federate?

Why didn't they establish a central government to establish uniform laws for all Australia, to be assisted by a system of local government, as was the case in Britain—commonly called the "Mother Country" at the time?

How is the concept of federation reflected in the Australian Constitution?

Is federalism likely to be a more democratic system than centralism?

• 2001—The centenary of federation/the three spheres of government

As 2001 marks the centenary of this system of government it is a timely opportunity to consider its development and future. The other sessions of this learning circle should prepare you for this; however it may be useful to consider what are some preliminary opinions about our federal system's three spheres of government, the way they interact and how you think they should develop.

This will provide the group with some issues to explore during the remainder of the learning circle and focus individuals on the research they may wish to do.

Some views of our system:

- that the three spheres of government mean we are over-governed in Australia;
- that government and the bureaucracies they rely on are too big/small;
- that the three levels do not necessarily work together for co-operative solutions;
- that the system is an anachronism;
- that there is too much competition between states—e.g. over the grand prix;
- that there is duplication, waste and competition;
- that the system is confusing for citizens;
- that our federal system cannot respond adequately to a modern, globally competitive world;
- that local government should be given increased powers as it is the sphere closest to the people;
- that the states should be abolished;
- that the states reflect the strongest identification for their people, and should be maintained and even strengthened;
- that the powers of the Commonwealth should be increased/decreased;
- how the present financial arrangements between the States and the Commonwealth can be improved;
- whether the Northern Territory should become a state, and, if so, on what terms; and
- whether powers should be divided differently between the Commonwealth and the States.

Discussion:

Consider the above views. Are there others which you feel have been overlooked? How will the group decide which themes/questions it will deal with? Can the group identify a successful way of getting feedback to keep the group on track? (e.g. referring to chart or questions at the end of each session)

Optional individual activity:

A LEARNING CIRCLE JOURNAL

Learning circle members may wish to commence a learning circle journal in a book or a folder. It can be a place for your notes, research and thoughts, as well as practical reminders of when and where meetings are, tasks to be done and details of contact people. A journal is a good way to reflect on your discussions between meetings and to keep your goals in sight. Also newspaper cuttings about relevant matters can be included. Such a journal could be useful in the future if participants decide to pursue their learning in accredited courses.

Participants could read from these journals at meetings and these readings can form the basis of useful discussions.

Optional group activity:

A PRINT MEDIA FOLDER

Learning circle members are encouraged to develop a media folder during their learning circle. Get a large scrap book and bring along cuttings from newspapers and magazines, and items printed from the Internet and paste them into the folder. People may wish to discuss them in pairs or expand on the item to the whole group.

The folder should develop into a valuable resources for the group and allow its members to gain knowledge of local and contemporary issues to illustrate the more general issues raised in the kit.

BEST COPY AVAILABLE

• Conclusions, evaluation, tasks for the next session

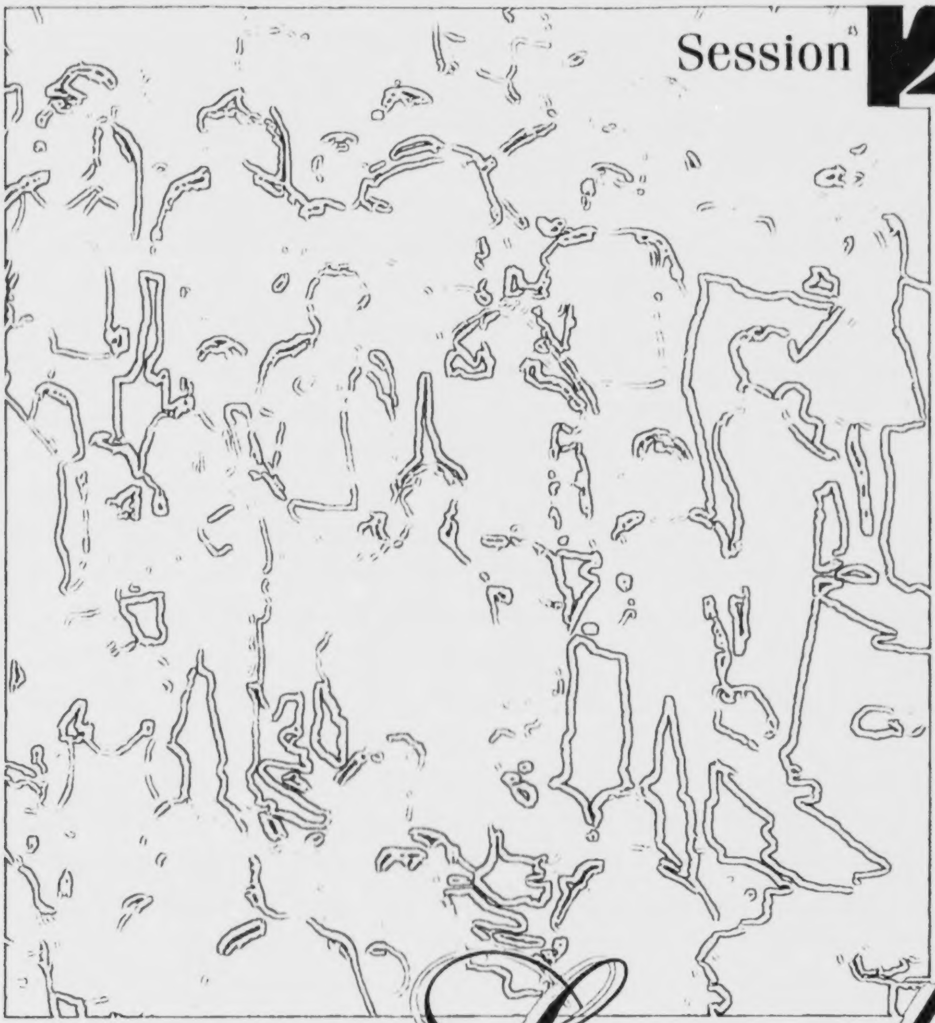
The last minutes of each learning circle are an important time for discussing what has been learned, how the session has run, confirming the time and place for the next session and dividing up the tasks to be done before that meeting.

The questions you may consider include:

- What does each group member feel has been achieved in this session? Was it what you agreed at the start? Have you reached agreement on goals for the rest of the learning circle?
- Were there any problems in the way the session ran and how can these be dealt with?
- Was the kit a useful stimulus to discussion?
- Are there any other resources the group can obtain to add to the kit?
- When and where will the next meeting take place?
- Has everyone got copies of the discussion notes for the next session? Can photocopying be shared?
- What is the group going to do with the resources between meetings?
- Will reading and research tasks be shared for the next meeting?
- Is the group going to start a media folder?
- Are there matters from this session which should be followed up and reports prepared for the next meeting? Who is going to do this?

Next Session: Local Government

Session 2



Local

GOVERNMENT

BEST COPY AVAILABLE

• Introduction

Local areas are where people live, work and play together. Although the boundaries of communities and those of local government do not necessarily coincide, and the level of activity in a community varies from person to person, it is fair to say that local government is the sphere of government closest to us all. Its services impact on our daily lives; the meetings of its council are more easily accessible than those of our state and federal representatives, and, given the number and close proximity of local councillors, the chance of becoming an elected representative in local government is greater than the other two spheres of government, and the chance of knowing local councillors is much greater than for state and federal members. The opportunity for citizens to address council meetings is an increasingly common practice. Also the possibility to become involved in the review of development plans is also greater as draft plans are displayed at council offices for public comment. Some with interest in local government join residents/ratepayers, progress associations to influence councils. These local interest/pressure/lobby groups can run on small budgets and allow considerable questioning of local government performance and demanding accountability.

It is this concentration on local and not national issues and the relatively limited means and powers of local government which leads some to view it as the least important and least exciting sphere of government. Conversely those advocating grass-roots politics see local government as the focus of a wider perspective. They would advocate that people 'think globally and act locally'. Such motives have lead to conflict with councils. Examples were green bans by the Builders Labourers Federation in NSW and multiple occupancy of rural land by people wanting to start alternative lifestyles. The global perspective has led to councils declaring themselves Nuclear Free Zones and adopting "green" policies like Tree Preservation Orders.

The local government sphere has enjoyed an improvement in its status and influence in the last 20 years. The allocation of direct grants based on income tax receipts by the Commonwealth, the amalgamation of councils with smaller administrations, imaginative state and national leadership and willingness to broaden their agenda into contemporary issues like employment, environmental management, tourism and indigenous issues have also given a new authority to local government. This increase in service delivery—often the result of higher expectations and demands from their communities—and more professional management of council resources have expanded the role, and status of local government.

Many learning circle participants may have already had considerable experience of local government as aldermen, employees, sports coaches and administrators using local government facilities, as library users, and as members of citizen groups which are supported by local government. Rate payers always have concerns how their money is spent. This session should give you the chance to reflect on your experiences, learn from others and decide what you want from your local government.

Suggested activities

What is local government? 3
Local government elections 5
Citizens and local government 7
Local governments and their communities 8
Themes and issues in local government 11
Local government in other countries 12
End of session 13

Background document 1
The development of Local Government

Background document 2
Councils have to hurry says survey

Background document 3
Working out the local agreement between the Cowra Shire Council and the Aboriginal Community

Background document 4
The Constitution Alteration (Local Government) Referenda 1988

Background document 5
Troubling development in Shire

Background document 6
Nillumbik—home of rifts and 'rogues'

Resources

Australia's Constitution

ALGA—Making agreements (Reconciliation)

Declaration on Role of Australian Local Government by the National General Assembly of Local Government 1997

Local Government and the Need for Constitutional Change

Map of local government area (Available from Municipal/Shire office)

BEST COPY AVAILABLE

• What is local government?

Australia has one national Commonwealth Government, six State Governments, two mainland Territory Governments and it has over 700 local or municipal government bodies. These range from the largest, the Brisbane City Council, with a population of 820,590 (nearly three times that of the state of Tasmania and the mainland territories) and an expenditure of $1,156,954,000 to small rural municipal areas like Yalgoo Shire in WA with a population of 440, expenditure of $2,036,000, two km of sealed roads and 1200 km unsealed in an area of 33,257 square kilometers.

Local government is the most diverse sphere of government in Australia, and involves the greatest number of elected representatives.

The three main functions of local government are:

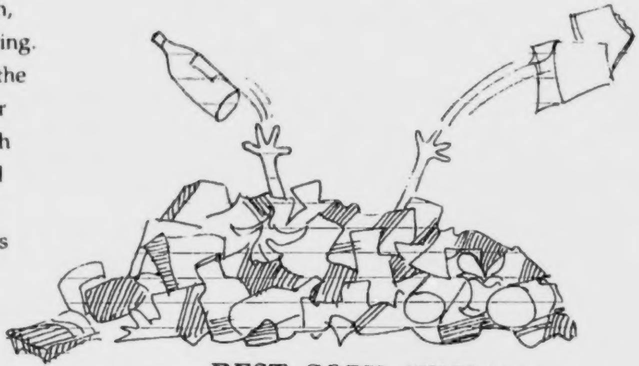
- **services to property** (roads, footpaths, drainage, waste management, street lighting and cleaning, and fire control);
- **services to the community** (libraries, health, welfare and recreation); and
- **regulatory services** (planning, building, dog/animal control, parking).

Prior to 1972 local government had a very restricted relationship with the Commonwealth, limited largely to specific grants for road building. With the introduction of general grants under the Whitlam government, councils diversified their activities and undertook local initiatives in such areas as child care, tourism, urban renewal and recreation, with money often coming from the Commonwealth government from programmes like the Better Cities programme.

With the growth of environmental concerns and awareness, local government has taken on new responsibilities and perspectives. Rubbish removal has become waste management. Uncontrolled land-fill rubbish tips have been improved and even reduced by the introduction of sorting of waste and re-cycling. New South Wales has set the specific target of reducing waste landfill by 60 per cent by 2000. (See Background Document

Table: Distribution of urban, regional and rural councils at 30 June 1999

State	Councils Urban	Councils Regional & Rural
NSW	45	135
VIC	32	46
QLD	13	143
SA	19	56
WA	29	113
TAS	2	27
NT	2	67
TOTAL	**142**	**588**



BEST COPY AVAILABLE

2) Community services have diversified, particularly into child care. This is a new area for local government involvement. The provision of sporting facilities and parks and gardens by local government is a huge area of activity, and one in which standards have been radically increased in recent times. This has called for proportionately greater expenditure, although some is received from user fees or lease arrangements.

The promotion of the local government area for business and tourism has become an increasingly necessary function of local government and many have developed business enterprise centres and even co-operative arrangements with other local government areas to promote their region for investment in industry and tourism.

The 1988 referendum proposal to give local government constitutional status in the Australian Constitution was rejected by voters in all States, with only 38 per cent of voters nationally giving approval. (See Background Document 4).

Regardless of this rejection, local government has been the subject of strong reforms in the 1990s including the trial of Integrated Local Area Planning (ILAP), more responsive approaches to residents, involvement in indigenous issues and promoting a multicultural society.

These developments are reflected in the 1997 Declaration on Role of Australian Local Government, a copy of which is included as a resource in this kit.

Discussion:

What is your local government body? What are its boundaries? Has its development conformed to the general outline in Background Document 1? What local variations are there?

What do your municipal buildings reveal about the development of local government in your area?

Does the 1997 declaration on local government address your concerns about local government?

• Local government elections

The variety which characterises local government in other areas also applies to its electoral procedures. Some states have compulsory local government elections—others are voluntary. Some councils are elected by preferential voting, others by first-past-the-post and others by proportional representation. Voting systems are not necessarily uniform throughout a state. For example: South Australia has 118 councils of which 64 use preferential voting and 54 use optional preferential voting. Terms of councils also differ between three and four years.

In order to overcome these variations and resultant confusion a former Premier of New South Wales, Nick Greiner, suggested to the Special Premiers Conference that there should be a common electoral roll and compulsory voting across all three spheres of government. His suggestion was not adopted.

In areas where voting in local government elections is voluntary turn-out can be very low. For example, in the City of Subiaco (WA) by-election for the south ward in November 1997, the successful candidate, Maria Harris, won with 33 votes and the loser, Lee Helmsley, received 26. However, in Tasmania, where local government elections are conducted by voluntary postal ballot, over 80 per cent of the citizens cast a vote.

A feature of local government elections is that the right to vote extends to non-residents who are rate-payers in the local government area. Some would claim this is not a democratic practice. For many years from its inception only property owners were entitled to vote, but this requirement was slowly relaxed from 1900.

The democratic principle of one vote one value is often tested in the sphere of local government (as it is in State and Commonwealth areas) because those councils elected on the ward system do not always have equal wards. Are the wards in your local government area equal in population and how are boundaries re-adjusted if they are not?

State governments can dismiss councils which have been elected by citizens. (See Background Document 5). State governments can only dismiss councils for maladministration and corruption. What impact might this have on local government?

Another issue which runs across all spheres of government is the quality of representation. Do councillors have high ethical standards or are they involved in local government to serve their own ends? There are general disqualifications for election which are similar to those of State and Commonwealth parliaments. They exclude people who are bankrupts, criminals and members of an Australian Parliament. Local government has introduced registers of pecuniary interests and codes of conduct for councillors which demand that councillors not take part in debates or decisions in which they have an interest. For example, if a councillor is a motor dealer and council is awarding contracts to supply motor vehicles that councillor may tender but not take part in meeting to award the tender. Is this good enough?

The rivalry between Australia's political parties has also been institutionalised to some extent in local government in the twentieth century. This was wonderfully illustrated in the film about Leichhardt City Council called *Rats in the Ranks*. This revealed all the manoeuvering, back-stabbing and commitment to personal careers and success that epitomises the popular perception of politicians.

How important is party political rivalry in your local council? If it does exist, would local government be improved if it could be eliminated?

Local government can also be a stepping stone to careers in State and Commonwealth parliaments. Many councillors have established a local support base, developed their debating techniques, possibly proved themselves to the party hierarchies and learned about the business of government at local level before seeking election to State or Commonwealth parliaments.

Discussion:

What system is used to elect your council? When will your local government council have its next election? Who are your local councillors? Who is your mayor? Are they part of political party groupings? Do you think the election campaign was well run? How democratic do you feel the selection of councillors was?

How representative are your councillors? Do they keep their electoral promises once elected? How much do you think they achieve?

• Citizens and local government

It is often asserted that local government is the easiest sphere of government for citizens to be involved in. What does this mean?

Attending council meetings is usually easier than attending State or Commonwealth parliament, and the opportunity to address council is certainly not available in the other parliaments. As councils discuss very specific proposals to do with development zoning of particular blocks of land, footpaths, sports facilities and playgrounds these may directly affect you and make the meeting more interesting than at state or Commonwealth level.

Another long-standing way of participating in council affairs is to form or join a ratepayers' association. Although these groups often have specific objectives they also serve to try to keep councils generally accountable to the people whose money they are spending.

Also specific lobby/pressure groups are a way of influencing council. When the NSW government was attempting to get a local council in that state to accept a high temperature incinerator for the disposal of toxic material, citizen groups formed to oppose this proposal. They campaigned vigorously and liaised with similar groups in other local government areas, and successfully stalled the proposal. Maybe this issue or some other has led to the formation of such groups in your local government area. Can you remember any?

Individual action by requesting a constituent interview with your representative(s) or making formal approaches to the council are also ways of participating. Often such contact will not be to criticise but to advise council of some deficiency in services or to make a suggestion about management or new services.

The ultimate form of participation is to seek election. This may require a public profile, possibly membership of a political party, limited resources for advertising and campaigning, and the time and resources to support your activities as a councillor if you are elected. What qualities do you think a councillor should have? How do you measure up? Will you give it a go?

Discussion:

What are the ways in which you can effectively participate in local government?

• Local governments and their communities

Indigenous issues

Local government prides itself on being the oldest sphere of representative government in Australia. However, Aboriginal tribes practised government over their local areas for up to 40,000 years before white colonists arrived in Australia. Indigenous local government was certainly the first sphere of government in Australia! Recently there has been a trend to incorporate local government areas where there are concentrations of Aboriginal and Torres Strait Islander people. In Queensland there are 14 Aboriginal communities and 17 island communities which have local government status. In the Northern Territory there are Aboriginal local government councils. Like all local government bodies these councils have the power to make local laws and have given Aboriginal communities more opportunities to control themselves and develop their own solutions.

Many local governments have encouraged improved service delivery to Aboriginal citizens and explored ways that may encourage a closer and more positive relationship between Aboriginal and non-Aboriginal citizens. This has arisen from the lead taken by the Council for Aboriginal Reconciliation, established in 1991 which seeks "A united Australia which respects this land of ours, values the Aboriginal and Torres Strait Islander heritage and provides justice and equity for all". In these areas there has also been encouragement for Aboriginal people not only to vote but also stand for election.

Some initiatives are mentioned in the following extract:

Celebrating Community Local Government Reconciliation Local Government Reconciliation program (1995).

The most fertile ground for reconciliation is the local community, where people live, work and share time together.

Reconciliation is a large concept. Even with vision and goodwill, it is not always easy to know where to begin.

How do you heal a painful relationship? Seek trust where history has laid no base for it? Build bridges between different cultures? Influence attitudes, make positive changes, set in plan structures that will work for the future?

Is the first step a quantum leap or a cautious toe in the water?

In the middle of 1994, nearly 200 Councils decided to join the national reconciliation process, to work to improve relationships between indigenous people and the wider Australian community.

Many Councils sought to build on previous initiatives.

Others entered the process for the first time, stimulated by the availability of a grant program administered by the Australian Local Government Association (ALGA) offering financial support for reconciliation projects undertaken by Local Government.

Celebrating Community records 49 practical ways that Councils have joined the reconciliation process.

This program laid the foundations for local government and indigenous communities making agreements. One such agreement is included as Background Document 3. Others can be looked at ALGA's URL http://www.alga.com.au. These agreements arise from the procedure suggested in the manual *Making Agreements,* a brochure about reconciliation which has been included in the resources for the kit.

Another response of local government to indigenous issues has been the establishment of an Aboriginal mentoring program in NSW.

The Department of Local Government (NSW) has developed a new programme which aims to improve the level of Aboriginal community representation on local councils.

A pilot of the Aboriginal Mentoring Programme was launched in February by the Minister for Local Government, Ernie Page, at Kyogle Council.

Colin Field, a representative nominated by the Aboriginal community, will join the Council as an observer for six months under the pilot. During this time he will be given guidance and training by an elected councillor, Niki Gill, who will act as mentor.

The programme, which will be encouraged in councils throughout the State, is designed to offer participants the opportunity to gain first hand knowledge and experience of local government and councils the opportunity to gain immediate feedback on the needs and concerns of Aboriginal communities.

Through this exchange and the links it will offer, it is hoped that more Aboriginal candidates will be able to step forward for future elections. With only 11 Aboriginal councillors in NSW, there's an obvious need for greater representation.

For more information contact Michael Coombes, Senior Policy Officer, ph 02-9793 0832.

From Perspectives, Issue 13 May 1997

Discussion:

Do you think local government can play a useful role in reconciliation in Australia? Should separate community local government councils be established for indigenous communities?

Multiculturalism

Local government has responded to the fact that Australia is an ethnically diverse society. Sometimes this response has been a local initiative, other times it has been because funding has been available to promote programs for people from non-English speaking backgrounds. Local government information is increasingly available in many languages, councils have employed multicultural officers and an increasing number of councillors and mayors come from ethnic backgrounds. The mother of Junior Australian of the Year for 1998, Tan Le, is Mai Ho, former Mayor of Maribyrnong in Victoria who came to Australia in 1977 with her family and other boat people, after fleeing from Vietnam. In Young, NSW, the scene of anti-Chinese riots in 1860, local government has promoted a Chinese garden project.

Another way local government has become involved in acknowledging multiculturalism is the performing of citizenship ceremonies.

Youth

Many local governments have also taken a role in youth affairs. There was a 62 per cent increase in number of Victorian councils employing youth workers from 1983 to 1987. In 1988, 103 full-time youth workers were employed by 65 Victorian councils and 13 more were employed part-time. The Municipal Association of Victoria produced a video entitled *Making Youth Involvement Work.* It is possible that this debate has been conducted in your council. What were its features?

Sometimes councils' concerns for youth have focused on the issue of unemployment, and councils have been enthusiastic participants in various labour market programmes, from the Wage Pause scheme of the early 1980s to Work for the Dole. This project funding allows councils to undertake extra works and increase their staff as well as providing a local solution for unemployed people, thus giving them an opportunity to stay in their local government area rather than move away in search of work. How have these issues been handled in your local government area?

Local Services

Council services include parks, playgrounds, roadwork, garbage collection and some community services to name a few. Council regulations affect areas as diverse as planning and building, keeping animals, parking, conserving the environment and maintaining public health.

Rates are an important source of council finance. They are taxes on land paid by the owners of houses or other property. The amount paid varies according to the value of the land. Councils also get money from charges for their services (eg for swimming at a council pool) and from the State or Commonwealth Government. Councils are increasingly adopting modern corporate management techniques to ensure that the services they provide the community are both high quality and value for money. Councillors are accountable through facing election on a regular basis.

Individual council members do not have the authority to make decisions or act on behalf of the council. The elected council as a whole is the corporate body. Individual councillors do, however, have to declare any interest in a matter before the council. They can be removed from office if they are declared bankrupt or convicted of an indictable offence.

Sport and other recreation

One of the largest services provided by local government is sports and recreation facilities. Ovals, golf courses, swimming pools, cycle paths, libraries and indoor recreation facilities have become as important as road construction and maintenance. This area impacts on most people in the local community and the management of these facilities is a big issue for local government. Some would argue that these facilities should be provided by the private sector and even that local government sponsored facilities have competitive advantages which should keep them out of these areas.

Which facilities in your area are provided by local government? Is there a debate about whether they should be maintained or reduced?

Discussion:

Do councils do enough for their local communities?

• Themes and issues in local government

Managerialism has had a big impact on local government. It has led to the adoption of corporate management strategies and a renewed emphasis on client services and effective outcomes. Town clerks have become general managers. Councils have mission statements and vastly improved equipment. There has been increased use of contractors for out-sourcing tasks traditionally performed by the council's workforce, and emphasis on "best practice". For example, the City of Stonnington in inner Melbourne sends out 'bug cards' with its rates notices and prides itself that 95 per cent of faults are fixed within 10 days.

The role of national and state associations of local government has been to advance the image of a more caring, professional sphere of government, whose authority rests on its intimate knowledge of local areas.

Local government has been formally recognised as a member of the Council of Australian Governments since 1992. This has also contributed to a rise in status when considering local government.

From 3–5 March 1998 the Melbourne Constitutional Convention recommended that the Premiers and Chief Ministers should commission an independent professional review to consider whether:

- to recommend reforms to further improve performance of local government;
- to define key roles and responsibilities of Local Government and areas of duplication between state and local government which should be eliminated;
- to identify best practice and communicate it across all local government areas;
- to investigate alternative revenue raising opportunities for local government;
- to determine how local government might be recognised in the Australian Constitution;
- to identify the unique role the capital city governments play in partnership with the state governments; and
- to develop measures to support the role of local government in fostering rural, regional and economic development.

Where will local government go from here? No-one expects that it will return to its traditional role of administering "rates, roads and rubbish" but without the constitutional recognition it craves, and a revenue base to generate significant capital and social programs, is it destined to be the "least important player" in the three spheres of government?

Discussion:

What do you think the future of local government should be in Australia? Do you think you can participate in these developments?

• Local government in other countries

It is likely that members of your learning circle either have experience of local government in other countries, or are prepared to do some research and report to the group.

As Australian local government is part of a federal system it may be useful to consider how local government works in other federal systems like the United States of America, Germany or Switzerland.

However, as Australian local government was originally modelled on British practices, looking at what has happened to local government in Britain and in New Zealand could be helpful. Both of these countries have unitary systems of government with no state level of government. Often they are larger regional councils which some have suggested would be a good model for Australian local government. There is a lot of information about local government in New Zealand local government at their URL http://www.localgovt.co.nz

Discussion:

Share your experience of local government in another country. How are councillors chosen? What services does local government provide? Do you think there are any practices which would make Australian local government better?

BEST COPY AVAILABLE

• End of session

By the end of the second session you should be more comfortable with the learning circle process of democratic learning. Reflect on how this is going.

Some possible tasks are:

- discuss whether the solutions suggested to problems (if any) in session one have been successful;
- reflect on what has been learned and how;
- are there other questions about local government to be considered? How will you deal with this? (individual research, extra meeting, using some time in a later session);
- is it time to plan a visit from a speaker (e.g. local councillor, council general manager, or a visit to a council chambers or works depot or other local government facility?);
- what arrangements have to be decided for the next meeting;
- check that everyone is getting access to the resource material in the kit; and
- distribute photocopies of session three discussion notes.

Next session: State and Territory Government

Background document 1

The development of Local Government

Local government activity commenced in the Australian colonies before it had any legislative basis. It relied on the precedent of British practice where local government was already established, based on parish areas. British colonial governments in Australia divided the lands they occupied into counties and parishes but this did not lead to local government being established. However, local trusts and boards did establish services like roads, ferries and schools. They raised money from tolls and other charges.

The practice of incorporating local government areas commenced in Britain with the Municipal Corporations Act of 1835. This act followed Royal Commissions which had shown that the antiquated local government machinery bred inefficiency and corruption. This Act was a model for the Australian colonies, and South Australia passed the first municipal legislation in Australia, which led to the election of the first Adelaide Council in October 1840. In Perth a body of trustees had been established in 1838 which developed into the Town Trust in 1842. This body administered municipal affairs until Perth City Council held its first meeting in December 1858. Melbourne and Sydney became municipalities in 1842. Brisbane achieved municipal incorporation in 1859, some months before self-government for the colony of Queensland.

The Municipalities Act proposed by Sir Charles Cowper had passed the New South Wales Legislative Council in 1858 replacing the unpopular District Councils legislation of 1842. An area could be incorporated after the state government had received a petition of at least 50 signatories of prospective rate-payers. A Municipal Council would consist of six to nine members, one third of whom should retire annually, and they were to be elected on a franchise restricted to rate payers. Their duties were numerous:

Among the duties to be undertaken by the council were the care and management of the roads, streets, bridges, ferries, wharves, jetties, piers, and public thoroughfares; the care and the management of public cemeteries and the provision of water supplies, sewerage services, and lighting systems. In addition the municipal councils were empowered to make laws for the prevention and extinguishment of fires, the suppression of nuisances, the regulation and licensing of porters and public carriers, slaughtering, sale of meat, markets fairs and sales, the preservation of public health and decency, the establishment of hospitals and asylums, public libraries, museums, botanical gardens and public places of recreation.

This was quite a list and provided a foundation for the provision of community services which local governments still maintain. It also indicates the range of services which private enterprise was unable or unwilling to provide in the infant municipalities. The strange dependence and love/hate relationship many Australians have with government was born in this legislation.

BEST COPY AVAILABLE

Background document 1

As other centres of population grew they became incorporated municipal authorities. As they grew further they changed their status from town to city. This process of local government incorporation under each colony's own legislation was largely completed in the more settled areas of all colonies by the time of Federation in 1901 and rural areas were incorporated into municipal shires in the following decade.

The issue of local government was not discussed at the Australasian Federal Conventions of the 1890s which thrashed out the deal on which our federation is based and documented in the Australian Constitution. The powers to be allocated to the Commonwealth were outlined clearly in sections 51 and 52 of the Australian Constitution, and the states were left residual powers in all other areas. There was never any suggestion that the new federal Commonwealth government would have any responsibility for local government and it remained a residual power of the states, under the control of their legislation. Consequently each state has Local Government Acts.

The extension of the franchise for local government elections this century made possible the introduction of party politics into local government, although this is not overt in all councils.

The relationship between local and state government was detailed in the early years of local government. The distinguishing nature of British local government—the specific grant—applied to the Australian system. Local authorities are permitted to do what they are expressly given the power to do. These powers were granted by state government legislation and at times it seemed to those involved in local government that they were being treated as little more than instrumentalities of the State Government, with the elected representatives performing their duties without pay! Each state government has a minister responsible for local government in his/her state, and since the 1970s there has also been a federal minister for local government. This tension between local and state government continues to this day and reached a peak in Victoria in 1993 when all elected local governments were dissolved, their tasks being undertaken by appointed administrators. The State government pointed to the impact of local government on other areas of the economy and an aggregate local government expenditure 23 per cent above the average for all the states. Elected councils were re-introduced in 1997 but in fewer municipal areas as boundaries had been redrawn and council areas amalgamated. In all states Local Government ministers/the government/Premier have dismissed individual elected councils for incompetence/mismanagement/corruption and appointed administrators until the problems have been remedied. Then elections have been held to elect a new council.

BEST COPY AVAILABLE

Background document 2

Councils have to hurry says survey

Municipalities in NSW will have to take urgent action to meet the State Government's target of cutting waste to landfill by 60 per cent by 2000, according to a survey of 143 councils completed late last year by the Beverage Industry Environment Council.

The BIEC survey found that 80 councils surveyed use 240-litre mobile garbage bins for weekly kerbside collections (there are 177 municipalities in NSW). Only seven councils surveyed offered a regular, containerised greenwaste collection.

The BIEC survey found 71 councils' contracts had more than five years to run, of which 58 councils' contracts will be in place for at least three years.

"The survey shows the largest impediments to sweeping domestic waste management reform are the number of councils using a weekly 240-litre garbage bin service and the lack of provision of a regular garden refuse service," BIEC chief executive Peter Shmigel says. "The survey is a significant tool for councils to educate ratepayers that, while larger bins are more convenient, they also lead to less waste reduction." The LRRA 1995 audit of more than 1600 households in Sydney showed that the use of garbage bins of 140 litres or less capacity encouraged households on average to recycle more than 60kg per year more than households relying on 240 litre bins.

The survey also found that Sydney councils are keener on educating ratepayers about waste minimisation, spending on average $30,000 a year on these activities, compared with $8,000 per year by rural councils.
...Regular containerised greenwaste collections, according to the 1995 audit, allow councils to achieve waste diversion rates of almost 60 per cent.....

Last year's survey's preliminary results show that annual costs of kerbside services to councils averages $91 per household and average fees per household paid to councils are $117.

from Waste Management and the Environment *vol. 8 no 3 Feb 1997*

Background document 3

Working out the local agreement between the Cowra Shire Council and the Aboriginal Community

Parties:
Cowra Shire Council and the Cowra Indigenous People.

Location:
Cowra, in central western NSW

Type of Agreement:
A local services agreement

Aims and Objectives:
To provide a harmonious community within the Cowra Local Government Area and enhance community relations between all members of the community.

Content:
The statement includes a range of commitments that each party has agreed to implement. For example:

- including details of Aboriginal history in local tourism information;
- identification of sites of significance to Aboriginal people using the models developed by Ballina Shire Council and the Jali Local Aboriginal Land Council;
- conduct cross-cultural and cultural awareness workshops for Council staff;
- participate in an Aboriginal employment project in conjunction with Parkes and Orange Councils;
- conduct awareness training for Council staff on recognition of sites of significance to Aboriginal people;
- recognise and organise events in NAIDOC week in July each year; and
- undertake other initiatives to improve service delivery to the Aboriginal community in Cowra Shire.

Notable features/elements:
One of the notable features is a study into the rates and charges for the Aboriginal community which may result in Council changing the rating structure for the community

Origins and processes:
This initiative was promoted by the NSW Local Government and Shires Association and was embraced by Council and Koori community representatives.

Benefits:
Improved relations between Council and the Aboriginal people in Cowra Shire, and a better understanding of each other's roles and responsibilities.

Implementation:
An Aboriginal Advisory Committee developed the agreement and is now oversighting progress on the various tasks identified in the agreement. The Committee comprises two Councillors and seven representatives from the Aboriginal community and is co-chaired by a nominee from council and the Aboriginal community.

Contact details:
Neville Armstrong, General Manager, Cowra Shire Council, PO Box 342 Cowra NSW 2794
Phone 02 6341 0120 Fax 02-6341 1031

Background document 4

The Constitution Alteration (Local Government) Referenda 1988

THE YES CASE—LIONEL BOWEN

In 1988, Lionel Bowen was Attorney-General and Deputy Prime Minister in the Hawke Government.

Traditionally a three-tier system has been the basis of government in Australia. At present, however, there is no reference to local government in the Constitution. The constitutional recognition of local government was discussed regularly at sessions of the Constitutional Convention, culminating in a 1985 proposal to insert into the Constitution a new section providing for recognition of local government. Victoria, Western Australia, South Australia and New South Wales have all amended their Constitutions to recognise local government, but in differing forms. Queensland and Tasmania are the only States which do not recognise local government in their Constitutions.

The Bill will give proper recognition to the third level of public administration in Australia today. Although local government bodies existed well before Federation, the range of functions undertaken by local government has expanded considerably since then. Many now provide a wide range of social services, recreational and sporting facilities, town planning, support for the arts, and significant measures to protect the environment.

The Government has accepted the recommendation of the Constitutional Commission that the proposed law should be confined to the States. The Commission noted that local governments might not be appropriate in the constitutional development of Territories such as the Australian Capital Territory, Christmas Island or Norfolk Island or in remote and sparsely populated areas in the Northern Territory.

The Bill does not give the Commonwealth Parliament power to establish local government bodies in the States. It expressly recognises that the form and structure of local government is a matter for the States. It requires each State to provide for the establishment and continuance of a system of local government. The provision is not intended to prevent State governments from providing for the amalgamation of local government councils or for their dismissal on grounds of incompetence or malpractice. It is expected, however, that the States will need to make provision for the election of new councils within a reasonable time after any such dismissal.

THE NO CASE—RICHARD ALSTON

Richard Alston has represented Victoria as a Liberal Party Senator since 1986. He is now Minister for Communications, Information Technology and the Arts.

Constitutional recognition of local government has been a hardy annual catchcry for municipal professionals since the early 1970s. So much so that the Federal government has found itself unable to resist the temptation to pander to those who are determined to pretend that the proposal is a harmless form of words. But inevitably, if passed, this proposal will turn out to be no such thing.

This proposal differs from the draft form of words recommended by the Constitutional

Background document 4

Commission. The Federal government has simply not explained why the words 'a system of local government' and 'the laws of the State' were inserted. The government would have the people believe that the proposal would simply entrench in the Federal Constitution power for the States to do what they have always done since Federation that is, control local government. However, there will be debate as to the real meaning of the proposal in the event it were to be adopted. There are two reasons for this. Firstly, there is the novelty of the provision and nothing similar in the Constitution which might be used as an aid to interpretation. Secondly, the proposal itself does not define 'a system of local government' and thereby inevitably invites a legal challenge.

Furthermore, the proposal would not:

- preclude a State from undertaking the compulsory amalgamation of local government bodies;
- prohibit the arbitrary dismissal of councils;
- stop the appointment of an administrator pending new elections;
- compel a State to provide for local government recognition in any part of the State;
- prevent the withdrawal of local government recognition from any existing area; and
- guarantee satisfactory funding for local government.

Indeed, most of these shortcomings in the proposal are specifically recognised in the Explanatory Memorandum accompanying the Referendum Bill.

Once constitutionally entrenched, the whole system of local government would be at the whim of the High Court. Its expansive interpretation in recent years of the corporations power, the external affairs power and s-92 merely demonstrate the hazards of attempting to predict an interpretive outcome. There would be the real possibility that the High Court will attribute substantial consequences beyond formal recognition, to the serious detriment of local government. Concern about possible unacceptable interpretations being given by the High Court was a factor in the decision of the 1980 Constitutional Convention to oppose constitutional recognition.

At best, the proposal merely reinforces the plenary powers that States already have over local government. Any claims that the proposal will protect and enhance local government as the third tier of government are patently false and need to be recognised as such.

The Constitutional Commission's Advisory Committee most concerned with this question was the Distribution of Powers Advisory Committee which was strongly opposed to any form of recognition for a number of persuasive reasons:

1. There is some uncertainty as to how the High Court would interpret a provision in the form proposed by the Constitutional Convention in Brisbane.

BEST COPY AVAILABLE

Background document 4

2. Support for the proposal came almost exclusively from local government and appeared mainly to be based on a perceived need to increase the status of local government.
3. Any entrenchment of the existence of local government should take place in State Constitutions under which it exists.
4. The nature of any perceived threat to local government had not been made clear to the Committee.
5. Some remote areas of Australia did not have local government and should not be compelled to have it.
6. The proposed s.108A adopted by the Australian Constitutional Convention would cast upon Federal and State Parliaments a legal duty to establish local government—an unusual course.
7. The appointment of administrators to carry on the affairs of local government bodies dismissed or misconduct might become more difficult.
8. It would be undesirable to entrench in the Constitution another level of government which would be in competition with the States.

[Local government] must have the continuing ability to negotiate with Federal and State governments in ways which reflect a multiplicity of different financial and resource needs. The last thing it wants is to be captive to the High Court. Local government in Australia is not under threat and it is fatuous to pretend that its future security of tenure depends on a constitutional place in the sun.

The proposal is little more than a smokescreen designed to disguise the government's shabby treatment of local government. The fact is that under Labor local government has had a very raw financial deal. Road funding has again been cut back by $35 million in the May Economic Statement. The 2 per cent personal income tax sharing formula has been varied to its disadvantage with increased tying of grants and a reduction of general revenue grants.

This constitutional proposal is no more than a hastily conceived attempt to impress an important population group without caring for the constitutional consequences. Many councils are now recognising the hidden traps of the proposal and will have no truck with those peak councils who refuse to face the evidence. Any shire which doubts the wisdom of Sir Harry Gibbs' words should obtain independent legal advice.

This proposition offers local government nothing but a minefield of uncertainty and disappointment. What local government deserves is action and money, not a deceptively 'harmless' form of words.

BEST COPY AVAILABLE

Background document 5

Troubling development in Shire

The Age 15 January 1998

The State Government's decision to appoint an investigator to report on the strained relations between elected councillors in the Shire of Nillumbik and the council's chief executive officer has attracted much media coverage.

As with many other municipalities, Nillumbik has been run by a somewhat directive, autocratic management. While this model may have worked reasonably well in the days of appointed commissioners, it has run into difficulty following the return of an elected council last year. The area of Nillumbik covers a "green wedge" with high conservation values. Elected councils represent their communities, and it is not surprising that the new council has a conservation bias.

The Government's inquiry will consider whether Nillumbik has been well governed. Good governance can include clashes of values among councillors over development and conservation issues. A fundamental requirement for good governance is not to stifle argument but to put in place open, responsive structures that can accommodate and encourage it.

But there may be other reasons why the Government has appointed a special investigator.

In the past, state governments have generally intervened in planning processes only when the issues were of state significance—the Portland to Melbourne high-voltage power line, prisons, hospitals and larger regional shopping and sporting centres.

But the Kennett government has shown itself ready to intervene in all kinds of land use, planning and environmental processes. They include overriding the St Kilda Road building height controls, the decision to permit the destruction of a rare plant community at the Merinda Park railway station near Cranbourne, and the decision to revoke the classification of the grasslands at Burns Road, Altona, as an environmentally sensitive area.

The Planning Minister, Mr Rob Maclellan, likes to defend the interventions by pointing out that they represent a small percentage of the issues dealt with under planning and environmental processes. But the Minister's readiness to intervene in planning processes sends a message to councils and their administrators that if they do not comply with the government's pro-development agenda, they run the risk of losing planning powers in relation to specific development proposals—or worse, being summarily dismissed.

At Nillumbik, it is fair to ask whether the Government wants to create a pretext for dismissing the Council. This would prevent it from introducing environmentally sensitive policies to protect the green wedge and from opposing the extension of Melbourne's ring road.

By John Dee, who formerly lectured and tutored in the Faculty of Architecture, Building and Planning at Melbourne University

Background document 6

Nillumbik—home of rifts and 'rogues'

The Minister for Planning and Local Government, Mr Rob Maclellan, says he should be reprimanded for not having taken action against the Nillumbik Shire Council sooner.

At least one of the councillors in the green belt to Melbourne's north-east agrees. Cr Natalie Woodley had been campaigning for months to bring about the suspension or sacking of the council, writing letters on the subject to the Premier, Mr Jeff Kennett, and other members of Parliament. She believes Mr Maclellan finally acted out of necessity, not because he or the Kennett Government wanted to enforce a suspension.

Mr Mclellan yesterday described the situation at Nillumbik as peculiar.

Often described as "rogue", the shire had been driven by non-party factionalism since its five councillors were elected in March 1997.

On 90 per cent of issues, Shire President Cr Robert Marshall says, the council reached five-nil decisions. But on the remaining 10 per cent, the votes were often cast 3–2. The differences were generally rooted in green-versus development philosophies.

The rifts between councillors—and councillors and council officers had depleted good governance, both the state government and its appointed commissioner of investigation, Mr David Abraham, agreed.

For the moment, there is administration rather than good governance following the appointment of a temporary administrator, Mr Merv Whelan.

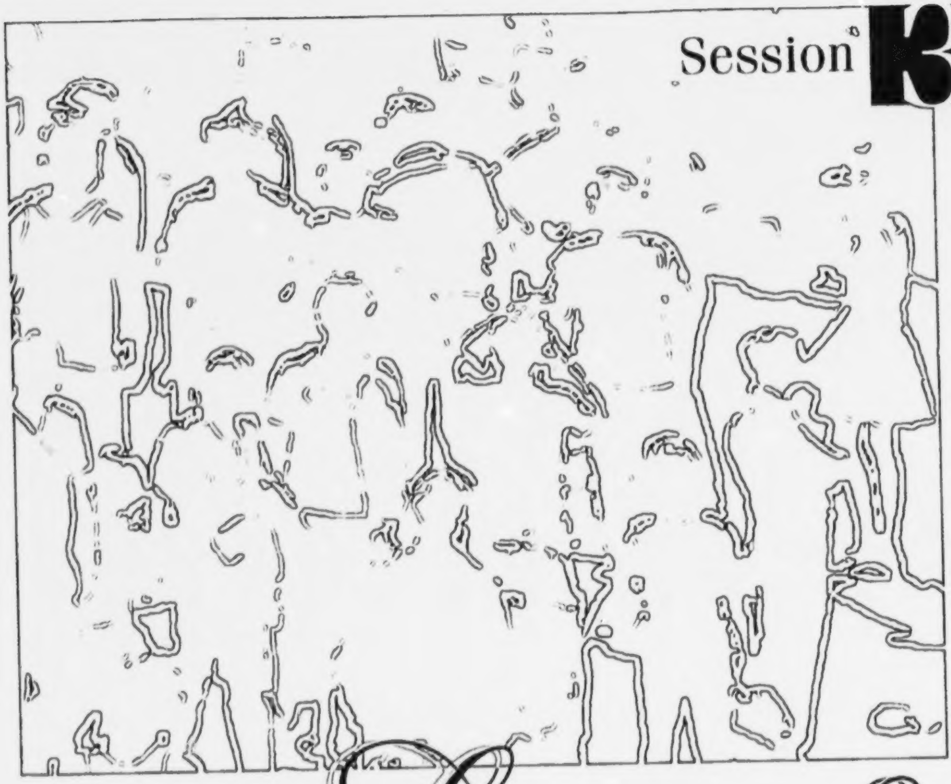
Some, including Cr Marshall, believe the decision to suspend the council was announced this week to avoid electoral repercussions in the federal seat of McEwen, which Liberal member Ms Fran Bailey held by only a tiny margin.

Mr Abraham's inquiry into the council was called last December because of a long-running dispute between former chief executive officer Mr Barry Rochford and three of the councillors—Cr Marshall, Cr Marg Jennings and Cr John Graves.

None of the "green" councillors had made any secret of the fact they wanted Mr Rochford perceived as a pro-Liberal, pro-development chief executive officer, ousted from the position.

*Gabrielle Costa/*The Age *15 October 1998*

Session 3



State & Territory GOVERNMENT

BEST COPY AVAILABLE

• Introduction

This session gives the group the opportunity to examine their experiences of their State or Territory government. Although groups will presumably focus on their own State/Territory, there should be opportunities to compare their government with those of other states and territories in Australia and to this sphere of government overseas. Group members may have lived, worked, visited or have relatives outside of Australia and this experience may be relevant.

Historically the Australian states have been separate and distinctive. Each had its own transport and economic systems. However, these differences have been blurred as this century has progressed. The development of even more efficient communications in the past two decades has questioned the need for these traditional political divisions at all.

Population and the exploitation of natural resources are still the fundamental bases of the states and the efforts to achieve growth in these areas is the prime function of State governments. Apart from natural increase, the populations of states have been supplemented by domestic and foreign immigration. (See Background Document 1). But the immigration of capital into the States is also keenly sought. Often State governments are in competition for these resources and State premiers try to outbid their counterparts in attracting investment and events to their states.

The States have a longer history than the Commonwealth to draw on and their parliament buildings are testimony to this. They can claim ownership of the Australian federation for it was established out of their governments. This forms the basis of many appeals to "States' Rights" against an allegedly centralist, anti-"States' Rights", Commonwealth Government in Canberra.

Another feature of the states is the division between the metropolitan and rural areas. Cynics in New South Wales have long maintained that State governments have thought that NSW stands for Newcastle, Sydney and Wollongong. Others would maintain that the concept that what is good for Melbourne, Perth or Brisbane is good for all the State, needs to be questioned.

Examining the States' place in Australian governance should be a lively experience for your learning circle.

Suggested activities

What State (Territory) are you in? 3

The States/Territories—sovereign polities 5

State/Territory electoral matters 8

State upper houses 9

The work of State governments 10

Corruption 12

States' republics 13

Statehood for the Northern Territory 14

New states and secession 15

Overseas experiences 16

End of session 17

Background document 1:
Gungahlin tops population stakes

Background document 2:
Northern Territory Statehood

Resources

Australia's Constitution

Parliament and the Government PEO

Electoral Systems of Australia's Parliaments and Local Government Joint Roll Council

Note: Each State and Territory has an education service in its parliament. The addresses are given in the introductory folder. Contact them to acquire a set of material about your State/Territory.
It may include a video as well as pamphlets and information about tours of your assembly. Consider booking your group into a visit either during the learning circle or afterwards. They will also be able to advise you on the availability of your State's Constitution and Hansard and sitting dates.

State Constitutions available at

New South Wales:
http://www.austlii.edu.au/au/legis/nsw/consol_act/ca1902188/
Hard copy from NSW Government Information Service, PO Box 258 Regents Park 2143.
Phone: 02 9743 7200 or country NSW:
Freecall 1800 463 955. Price $8.40.

Northern Territory:
Northern Territory does not have a Constitution as such, but has the Northern Territory Self Government Act 1978. This hard copy is available from State, Parliamentary and University Libraries. An electronic version of the Act is at the following address:
http://scaleplus.law.gov.au/html/pasteact/browse/TOC23.htm

Queensland:
http://www.parliament.qld.gov.au
(then to 'History', then 'The Queensland Constitution'). A hard copy is available from the Queensland Government Printers (Acts, Laws and Documents Relating to the Constitution of the State of Queensland [31/1/98]) for $35.00.

South Australia:
http://www.austlii.edu.au/au/legis/sa/consol_act/ca1934188/
or hard copy from Information South Australia, Ground Floor, 77 Grenfell Street, Adelaide, 5000
Phone 08-8204 1900 Fax 08-82041909 for $3.45.

Tasmania:
http://www.thelaw.tas.gov.au
and search for Constitution Act, 1934 on Legislation Database. Hard copy is available from the Printing Authority of Tasmania.

Victoria:
http://www.parliament.vic.gov.au
(then to 'Democracy', then 'Victoria's Constitution'). The hard copy is available from the Australian Government Printing Service for $10.00.
Phone: 03 9651 8624 Fax: 03 9654 5284

Western Australia:
http://www.parliament.wa.gov.au
with a link to the Constitution.

(Note: state year books may include a summary of the Constitution)

• What State (Territory) are you in?

Our car registration plates tell us which State or Territory we come from. For example we can come from the Premier State (NSW), be in a State of Excitement (WA) etc. Also we can be identified as crow-eaters, sandgropers or banana-benders. Our States developed as separate colonies, although Tasmania, Victoria, Queensland, South Australia and the Northern Territory (and New Zealand) started their life as parts of New South Wales.

Expressions vary from State to State. Some people pack ports and others suitcases. Some catch yabbies and others gilgies. In some States watching the footy on Saturday arvo means watching Aussie Rules. In others it means watching Rugby League. Sydney and Melbourne are longstanding rivals and Adelaide and Perth have always been suspicious of the 'east'. Queensland is suspicious of the 'south'. The States have different economic bases and activities and they are often in competition for Commonwealth funds, domestic and overseas investment and even people. Population growth has been favoured, even at the expense of another State, and State governments often have the powers to influence these trends. For example, the abolition of hospital charges and death duties attracted population to Queensland in the 1970s and 80s.

People and political entities often define themselves by their differences to others. Western Australia is huge (the western third of the continent), Tasmania is tiny. The Northern Territory is warm and relaxed, Victoria is cold and businesslike. South Australia grows grapes, makes wine and has an arts festival. New South Wales is proud to have two national icons in Sydney—the Harbour Bridge and the Opera House. Queensland has become a tourist destination and has an international airport outside of its capital city to prove it. All point to their differences from Canberra, the seat of Commonwealth government and source of people and policies which are seen to limit the power and independence of the States.

Each State and Territory has its own public institutions and distinctive buildings to house them. They include government and parliament houses, supreme courts and office blocks. Of course each has its own Constitution and all the States have guarantees in the Australian Constitution that their own Constitutions will be preserved and the powers and laws of their parliaments shall not be diminished except in those areas expressly handed over to the Commonwealth. (See chapter 5 of the Australian Constitution).

Each State and Territory has its own heroes and history. Sometimes they are politicians but they are as likely to be footballers, businessmen, artists, athletes and ratbags. But Gary Ablett is definitely a Victorian, Jessie Street from New South Wales, RM Williams a South Australian, Joh Bjelke-Petersen a Queenslander, Tom Cole a Territorian and Margaret Court a West Australian (although born in Albury).

We live not only in a political federation, but in a federation of ideas and localities. Australia's diversity is a feature of its development. In the 1950s and 1960s Sydney and Melbourne became multicultural cities as the result of the post-Second World War Commonwealth immigration programme while Perth, Adelaide and Hobart claimed to remain more 'English'. Western Australia, Queensland and the Northern Territory are characterised as mining and pastoral economies while Victoria and New South Wales claim their manufacturing industries set them apart. South Australia has its wine industry. Tasmania's location as an island off the coast is enough to make it distinctive.

Discussion:

- **What do you like best about your State/Territory?**
- **What are the important current issues for government in your State/Territory?**
- **What will be the major challenges facing your State/Territory in the future?**
- **How can we value diversity without it becoming divisive?**

Optional activity

THE OTHER TERRITORIES

A significant number of Australians were once residents of, and involved in the government of another territory—Papua New Guinea. Soon after Federation the Commonwealth of Australia was offered the administration of Papua by Britain. After the defeat of Germany in 1918, Australia became responsible to the League of Nations for the mandated Territory of New Guinea, which it had occupied since 1914, as well. These areas were under Australian control, apart from the period of Japanese occupation in World War Two, until their independence in 1975.

The style and forms of government established echoed the autocratic rule of the early British colonies in Australia. Attempts to introduce democratic forms of government at local level were only initiated in the 1960s and at that time it was expected that Papua New Guinea would not be ready for independence until the end of the century. Of course it was achieved more rapidly than had been expected by conservative politicians of the 1960s.

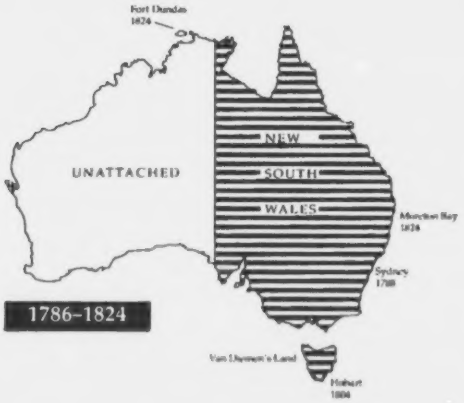
Australia introduced a parliamentary democracy to Papua New Guinea, which has survived serious abuses of executive power, corruption and violent politics and the secession movement in Bougainville. It is possible that a member of your group has connections with Papua New Guinea or that the group has sufficient knowledge of its current situation to compare it to the Australian political experience.

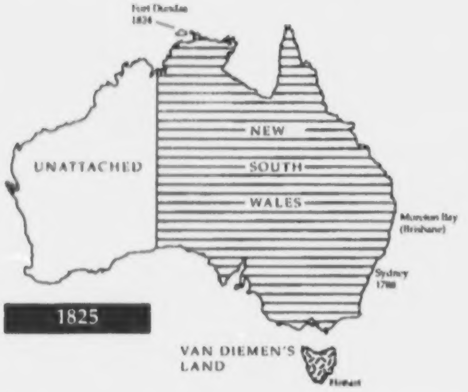
Note: Someone in your group may even have experience of Australia's other external territories—Nauru (now independent), Antarctica, Cocos (Keeling) Islands, Christmas Island, Ashmore and Cartier Islands, Norfolk Island, Heard Island and McDonald Islands, and the Coral Sea Islands Territory.

Discussion:

Was Australia a fair and effective colonial power in Papua New Guinea? Has Papua New Guinea adapted democratic institutions to its history and culture?

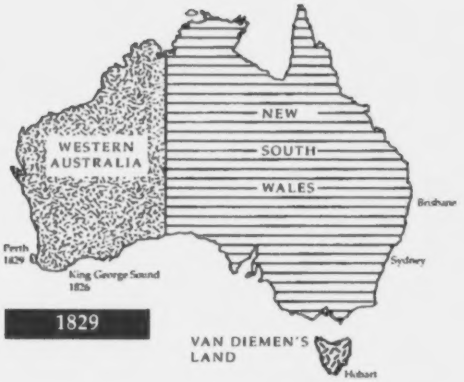
• The States/Territories—sovereign polities

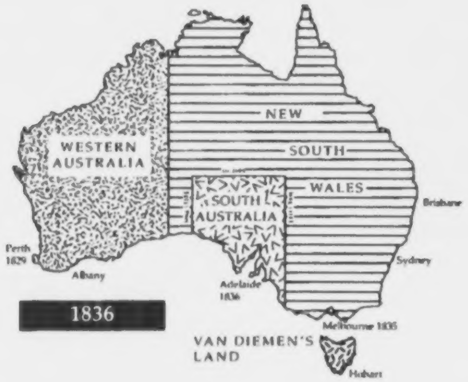

Fort Dundas
1824
UNATTACHED
NEW
SOUTH
WALES
Moreton Bay
1824
Sydney
1788
1786–1824
Van Diemen's Land
Hobart
1804


Fort Dundas
1824
UNATTACHED
NEW
SOUTH
WALES
Moreton Bay
(Brisbane)
Sydney
1788
1825
VAN DIEMEN'S
LAND
Hobart

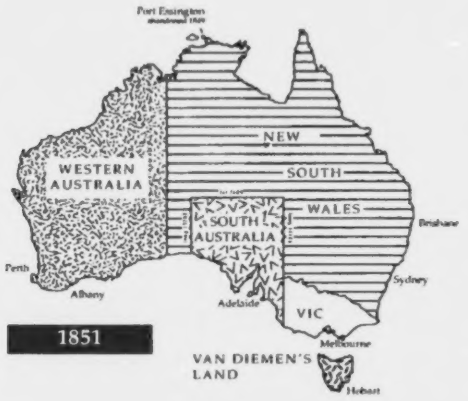
All of the States and Territories have either a constitution or a self-government act. Thus they are separate political entities with their own governors as heads of State, appointed by Elizabeth II, Queen of Australia. Their constitutions pre-date the Australian Constitution and provided much of the detail and practice for it. The Australian federation exists because the States wanted it and were prepared to surrender certain powers to the new Commonwealth government, although the residual powers they retained were not specified. Because they were the older polities from which the Commonwealth sprang, they felt it was only the Commonwealth which should have its powers defined.

The important powers retained by the States at federation included control of land policy and development, minerals, law, justice and prisons, transport, education, agriculture, local government and health. These areas have been the mainstay of State government activity for a century.

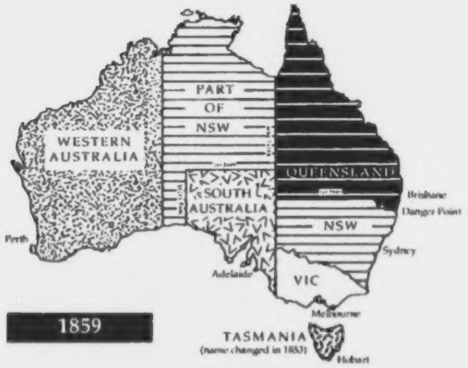

WESTERN
AUSTRALIA
NEW
SOUTH
WALES
Brisbane
Perth
1829
King George Sound
1826
Sydney
1829
VAN DIEMEN'S
LAND
Hobart


WESTERN
AUSTRALIA
NEW
SOUTH
WALES
SOUTH
AUSTRALIA
Brisbane
Perth
1829
Albany
Adelaide
1836
Sydney
1836
Melbourne 1835
VAN DIEMEN'S
LAND
Hobart

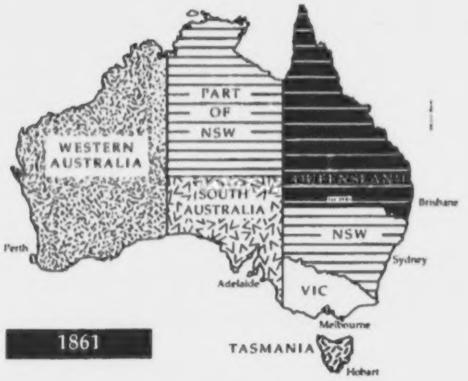
BEST COPY AVAILABLE


Port Essington abandoned 1849
NEW
SOUTH
WALES
WESTERN AUSTRALIA
SOUTH AUSTRALIA
VIC
VAN DIEMEN'S LAND
Perth
Albany
Adelaide
Melbourne
Sydney
Brisbane
Hobart

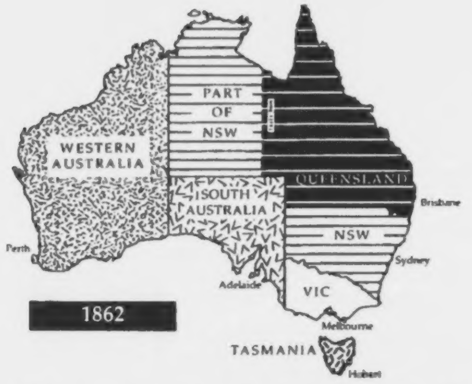
1851


PART OF NSW
WESTERN AUSTRALIA
QUEENSLAND
SOUTH AUSTRALIA
NSW
VIC
TASMANIA (name changed in 1853)
Perth
Adelaide
Melbourne
Sydney
Brisbane
Danger Point
Hobart

1859


PART OF NSW
WESTERN AUSTRALIA
QUEENSLAND
SOUTH AUSTRALIA
NSW
VIC
TASMANIA
Perth
Adelaide
Melbourne
Sydney
Brisbane
Hobart

1861


PART OF NSW
WESTERN AUSTRALIA
QUEENSLAND
SOUTH AUSTRALIA
NSW
VIC
TASMANIA
Perth
Adelaide
Melbourne
Sydney
Brisbane
Hobart

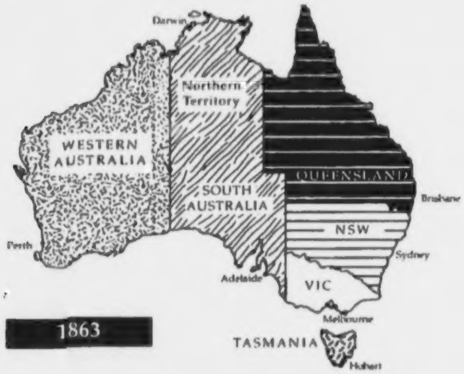
1862

The story of the constitutional evolution of the colonies has often been told as the relentless march towards democratic institutions. The initial governors were autocrats answerable only to their British masters—months away on a boat. The performance of Governor Bligh in NSW reinforced this image. Then the move to appoint a small group of advisory councillors was taken and these bodies were later widened to include some elected members, even though they were elected on a franchise restricted to men of property. Democratic reforms followed the surge in population of the gold rushes in the 1850s (the 1890s in WA) and the new lower houses comprised only elected members. However, upper houses still continued with some members appointed by the governor for long periods of office (life in Queensland and New South Wales) or were elected on 'special' franchise arrangements. In fact, it was not until the 1970s that all 'special' franchises were abolished for State upper houses.

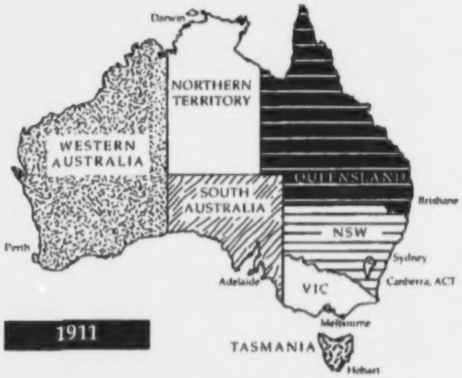
Another 'democratic' feature of the colonial parliaments was the introduction of the payment of members. This did not occur immediately on the gaining of Constitutions in the 1850s but was introduced gradually. Victoria introduced this measure in 1870, Queensland in 1886, South Australia in 1887, NSW in 1889, Tasmania in 1890 and Western Australia in 1900.

All of the State Constitutions are 'flexible' Constitutions. Unlike the Australian Constitution, they can be altered by legislation passed by the State parliament, except the provisions regarding references to the Crown in all States except Victoria and Tasmania. In these cases such amendments need to be approved by referendum of voters in that State. Thus State Constitutions are not single documents like the Australian Constitution. They comprise the original Constitution and all the amending legislation. This makes State Constitutions relatively inaccessible and Western Australia is addressing this problem in a planned State Constitutional Convention.

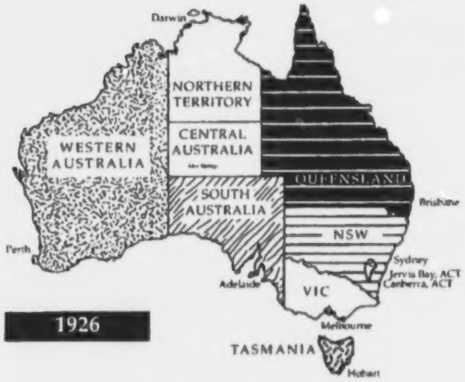
BEST COPY AVAILABLE


Darwin
Northern Territory
WESTERN AUSTRALIA
SOUTH AUSTRALIA
QUEENSLAND
Brisbane
NSW
Sydney
Perth
Adelaide
VIC
Melbourne
TASMANIA
Hobart

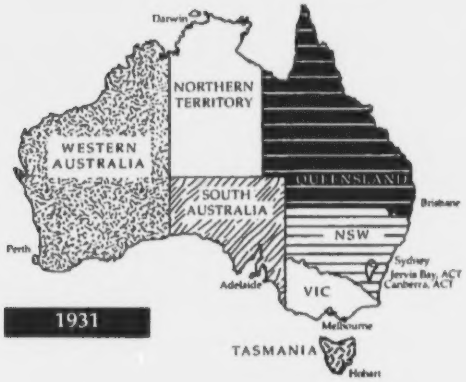
1863


Darwin
NORTHERN TERRITORY
WESTERN AUSTRALIA
SOUTH AUSTRALIA
QUEENSLAND
Brisbane
NSW
Sydney
Canberra, ACT
Perth
Adelaide
VIC
Melbourne
TASMANIA
Hobart

1911


Darwin
NORTHERN TERRITORY
CENTRAL AUSTRALIA
WESTERN AUSTRALIA
SOUTH AUSTRALIA
QUEENSLAND
Brisbane
NSW
Sydney
Jervis Bay, ACT
Canberra, ACT
Perth
Adelaide
VIC
Melbourne
TASMANIA
Hobart

1926


Darwin
NORTHERN TERRITORY
WESTERN AUSTRALIA
SOUTH AUSTRALIA
QUEENSLAND
Brisbane
NSW
Sydney
Jervis Bay, ACT
Canberra, ACT
Perth
Adelaide
VIC
Melbourne
TASMANIA
Hobart

1931

This history is the basis for the often used political slogan of this century—"States' Rights". This slogan appeals to the independence of each State from the Commonwealth government and the perceived power of "Canberra" and to the things which are distinctive about each State and its suspicions of others.

Discussion:

How did your State Constitution develop? When was it adopted? Has it been amended? How can it be amended? Are there any moves, like in Western Australia, to rationalise your State's Constitution? If you are in WA, do you think this process will improve the understanding of citizens of your State about constitutional matters?

Optional activity:

Your State/Territory is full of interesting historical and contemporary figures. Research some biographical details of a man/woman involved in the development of your State Constitution or self government act or someone who has made suggestions for its further development or reform.

BEST COPY AVAILABLE

• State/Territory electoral matters

How does your State/Territory political system work? There is considerable variety in electoral systems and organisation of government between the States and Territories. Some draw their upper houses from single, state-wide electorates while others have subdivisions. Queensland abolished its upper house in 1921. Some use preferential voting and others proportional. Members of parliament vary in number and term of office. For example, Western Australia is divided into six electorates for its upper house, four regions choosing five and two regions choosing seven representatives elected by a system of preferential proportional representation for a four year term. However Western Australia has 57 electorates for the lower house, each of which are single member constituencies and members are elected by preferential voting for four years.

The Joint Roll Council chart, included as a resource, details the different arrangements for each State and Territory. What is yours and how does it compare to others?

With few exceptions (like bankruptcy, imprisonment and insanity), anyone of voting age can stand for election to State/Territory parliaments. Of course, as in the Commonwealth parliament, membership and support from a political party is usually a pre-requisite to achieve election. The high costs of running an election campaign, although subsidised by public funds, require considerable personal and party resources. This inevitably means that State politics is about party politics.

Discussion:

- **Which electorate for the lower house do you live in?**
- **Who is your member?**
- **How are you represented in the upper house (if you have one)?**
- **How are these members elected?**
- **Do you think these electoral methods are democratic?**

It is about the Liberal, Labor, National and minor parties slugging it out in the parliaments and running state wide election campaigns when parliaments are dissolved. However, with the increased media coverage available, political leaders maintain a high profile all the time. Some argue that there is a perpetual election campaign trying to influence not the mass of voters but the minority of swinging voters. So State and Territory governments feel a need to display energy, leadership and solutions in legislation to the issues that their population deems important.

Discussion:

- **What are the qualifications for State members?**
  - **Are they similar to Australian Constitution restrictions (e.g. dual citizenship, bankruptcy, residence)?**
  - **Should there be any restrictions, or should discrimination be shown by electors in a democracy to select the best candidates?**
- **How important is political party support to achieving election?**
- **How does a candidate receive the support of a political party?**

• State upper houses

State upper houses have been seen by many as an undemocratic feature of Australian political history. To overcome this the Queensland Labor government abolished that State's Legislative Council (to which members were appointed for life) in 1921 and Lang's Labor government in New South Wales tried to do the same in the late 1920s and early 1930s. Legislation in Queensland only has to be considered by one house, the Legislative Assembly. From 1933 in New South Wales members were elected by the parliament rather than appointed by the government. Until relatively recently they have been elected on a restricted franchise. When self government was established in the ACT and Northern Territory in the 1980s, upper houses were not included in their system of government. The same applied to Norfolk Island which only has an assembly of nine members elected for three years.

The upper houses of State parliaments are where any ceremonies involving the monarch or vice-regal representative (the State governor) take place. This includes the opening of parliament. The tradition, arising from the visit of the English King, Charles to arrest members of the House of Commons in 1642, that the monarch or vice-regal representative cannot enter the lower house, makes this necessary. Interestingly, in Queensland, the old legislative council chamber has been used for the opening of parliament since 1962 although it appears that the state governor did open parliament in the legislative assembly from 1922 to that date.

The various Legislative Councils do perform legislative roles as well as contribute members to the ministry. In fact it was a state upper house, that of Western Australia in 1919 which supplied the only leader of a government (Premier Hal Colebatch) to come from any upper house in Australia this century.

The place of state upper houses can be likened to that of the Senate in the Commonwealth Parliament. Although they cannot initiate or amend money bills, they still have to approve them, as they have to approve all other legislation to be considered by the state parliaments before it is granted Royal Assent and becomes state law. In this way they can exercise the role of a House of review. They may refer legislation to investigation by a committee which may seek public consultation on the proposed legislation. This is more likely to occur when the Upper House is not controlled by the government, but by minor parties and/or independents.

Discussion:

- **Do you think a State/Territory upper house is necessary?**
- **What functions should it perform?**
- **Should they be abolished in the remaining States?**

• The work of State/Territory governments

Note: The material available from your State/Territory parliamentary education service will be required for this activity, and should be arranged well before the session. It is also possible the group may wish to visit their State/Territory legislature.

State governments adopted the traditions of the British Parliament at Westminster when they were established in the nineteenth century. The South Australian lower house even has red lines in its carpet on either side of the chamber, which represent the blood line of ancient parliaments. These were at least two sword lengths apart so that if members became too heated in their debates, at least they would not be able to strike their opponents with their swords! The buildings and their furnishings were built to attract respect for the institution which made the laws of the State. Speakers and clerks wore wigs and gowns. Traditional ceremonies have been continued in many State parliaments.

While these ceremonies continue, the work of State parliaments has changed since their formation. When responsible government was achieved in the colonies, their parliaments became responsible for passing laws for their "peace, order and good government". Their external affairs were regulated by the British government until federation in 1901 and from then by the Commonwealth. They still promote themselves overseas through their State agents-general, tourist and trade offices, which recognises that they regard themselves as independent, sovereign political entities.

With the increase in volume and complexity of their business, their legislatures have grown in size and diversified in function. Committees of both houses (except in Queensland, the ACT and Northern Territory where only one house exists) are used to develop and scrutinise legislation and public enquiries are held to allow public consultation. In the 1980s the NSW legislature voted to reduce its numbers. The same proposal was seriously discussed in Tasmania in 1997 and came into effect in 1998.

Case study:

State and Territory legislation

Choose a recent piece of legislation in your State and Territory and find out what it provides for, how it developed and assess whether it will contribute to the "peace, order and good government" of your State/Territory.

Some examples are "One strike and you're in [jail]" sentencing legislation; abortion legislation, euthanasia legislation in the Northern Territory [since over-ruled by the Commonwealth legislation proposed by Kevin Andrews, Member for Menzies (Vic)].

State/Territory bureaucracies have grown immensely since their foundation, particularly as the states are responsible for labour intensive areas like education, policing and law, transport and health. Controversial issues are regularly debated in parliament. Debates are reported verbatim in Hansard which is available from your State Parliament or on the Internet.

Discussion:

How does your State/Territory parliament/assembly work? What house or houses of parliament does it have? How are they elected? What work does it do? What do you think of its recent legislation? Do you think its powers and/or size should be reduced or increased.

• Corruption

An unfortunately distinctive feature of State governments over the past two decades has been allegations of corruption. In Queensland this led to the Fitzgerald enquiry and the establishment of the Criminal Justice Commission which, in turn lead to the imprisonment of former police chief Terence Lewis and the trial of the ex-Premier, Sir Johannes Bjelke-Petersen. In NSW, a Minister, Rex Jackson was jailed in 1987 and the Independent Commission Against Corruption (ICAC) was established in 1988. ICAC has made some famous investigations. One such investigation led to the resignation of Premier Nick Greiner and his colleague Tim Moore in 1992. ICAC's characterisation of their behaviour as corrupt was, however, subsequently over-ruled by the Supreme Court of New South Wales. Also in New South Wales the Wood Royal Commission investigated the police force in 1997. In Western Australia the Royal Commission into WA Inc. led to the jailing of two ex-Premiers (Burke and O'Connor). South Australia's Royal Commission into the State Bank collapse revealed mismanagement and possible corruption and Tasmania's government has been seen to be the hostage of that state's Hydro-Electricity Commission. Scandals have surfaced in all the Australian states from time to time.

Much of this relates to the issue of the misuse or alleged misuse of executive power. State Premiers are immensely powerful people. They are instrumental in arranging legislation for costly, large scale developments. They have residual prerogative powers of pardon in criminal cases. When capital punishment was a part of the legislation of all states appeals for mercy were regularly made to State Premiers by those condemned to death and were sometimes successful. An apparent inconsistency in the use of the death penalty by the Bolte government in Victoria in the 1960s in the Tate and Ryan cases was a key argument for its abolition. Pardons have also been granted to those convicted of less than capital offenses.

The complicating factor is that Premiers are also heads of their political parties and unavoidably involved in the management of their party's political and electoral strategies. Both involve huge amounts of money, and the attractiveness of receiving donations to swell these funds is obvious. However, those who donate usually expect some reward. Sometimes corruption has lead to the increase of personal and family wealth. Most people have heard these stories about their State/Territory politicians and some people would say they are well founded.

Discussion:

- **What are some of the corrupt/allegedly corrupt activities which have occurred in your State/Territory?**
- **Are they true?**
- **How do they happen?**
- **What can be done to avoid these situations?**
- **Do whistleblowers do a good job?**
- **Is corruption a feature of all governments?**

• States' republics?

The Australian Commonwealth is a constitutional monarchy, with a governor general representing the monarch in the performance of the regular duties of that office. The States are separated constitutional monarchies with the State governors representing the sovereign. Their Constitutions would have to be amended to change this arrangement. These amendments could be made by parliamentary legislation in some States, but in New South Wales, Western Australia, Queensland and South Australia it is argued that a state referendum is necessary. Even in Victoria and Tasmania it is likely that a plebiscite would be held before the parliament took action to amend the State Constitution.

The implications for the States and Territories of a move to a republican form of government at the national level were considered at the Constitutional Convention held in Canberra in February 1998.

The recommendation of the 1998 Constitutional Convention

Implications for the States:

That the Commonwealth Government and Parliament extend an invitation to State Governments and Parliaments to consider:

- the implications for their respective Constitutions of any proposal that Australia become a republic;
- the consequences to the Federation if one or more States should decline to accept republican status
- That any move to a republic at the Commonwealth level should not impinge on State autonomy, and the title, role, powers, appointment and dismissal of State Heads of State should continue to be determined by each State; and
- While it is desirable that the advent of the republican government occur simultaneously in the Commonwealth and all States, not all States may wish, or be able, to move to a republic within the timeframe established by the Commonwealth.

The weight of opinion—legal, academic and public—is that the States would have to become republics too. Many argue that it would be illogical to maintain a constitutional monarchy in a state when its national government is republican. Others argue that the Commonwealth could use its legal powers under the external affairs power, to compel the States to change their system. Others would point out that raising these uncertainties is a tactic of those who favour the status quo because only three States need vote against the proposal for it to be lost even if a majority of electors, from the populous States, vote in favour. This constitutional requirement gives the States of smaller population a special influence. Tasmanians and South Australians hold Australia's future constitutional structure in their hands. In this case the votes of 309,435 Tasmanians are as important as those of 3,923,142 people from New South Wales.

Discussion:

What references are there to the Crown in your State's Constitution? How can your State become a republic? Do you want it to?

• Statehood for the Northern Territory?

Early in 1998 another constitutional convention took place—the Convention on Statehood for the Northern Territory. If achieved this would have resulted in the Territory having its own Constitution rather than have its government determined by the Northern Territory (Self Government) Act enacted by the Commonwealth Government in 1978. (See Background Document 2). A referendum to approve statehood for the Northern Territory held later in 1998 was defeated but the idea remains.

At one end of the spectrum supporters for this idea argue that the Northern Territory should have the status of an original state in the Australian federation. Therefore it should have 12 senators, have its coat of arms incorporated into the Australian Commonwealth Coat of Arms and have the Australian Constitution amended to include this status. On the other hand, opponents argue that an area with such a small population (180,000) cannot enjoy the constitutional benefits of statehood. Some even argue that it should be given back to South Australia!

The Australian Constitution allows for new states to be admitted to the Commonwealth or established. Although originally this was a clause included to allow New Zealand to join the Australian Commonwealth, it does give a legal means for any other new state to join. Of course, the admission of any new state changes the balance for constitutional amendment. One more state in the Commonwealth would mean a majority of states would remain four, and thus make constitutional amendment more possible.

However section 121 of the Australian Constitution states: "The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament as it thinks fit".

On October 3, 1998, in conjunction with the Commonwealth elections, the voters of the Northern Territory voted in a referendum about statehood for their Territory. The majority voted against statehood. However, the proposal still has passionate advocates in the Territory and will continue to be a popular topic for discussion.

Discussion:

- **Do you think the Northern Territory should be granted statehood in the Australian Commonwealth?**
- **If so, how should it be represented in the Senate?**
- **Should the ACT also be given this status?**
- **On what grounds should a new State be admitted?**

• New states and succession?

Almost since the enactment of federation in Australia in 1901 there have been parts of the country which want to change the arrangement. Even before 1901, the goldfields area around Kalgoorlie in Western Australia threatened to secede to join the new federation if the rest of the colony of WA did not. New state movements have been active in northern Queensland, the New England, Riverina and Monaro regions of New South Wales and Western Australians have often maintained they should leave the Commonwealth altogether and so voted in a referendum in 1933. Their case was rejected by the British authorities. From the 1960s this cause was championed by mining magnate Lang Hancock and more recently by West Australian Senator Ross Lightfoot and his Secession 2000 organisation.

At the Australia Unlimited conference in Melbourne in May 1998 Professor Geoffrey Blainey maintained that an Australian state would try to secede from the federation in the next century because "The federal system is at heart a web of compromises—some fragility will always be there".

In 1972 Leonard Casley, a wheat farmer who was contesting the amount of his wheat quota with the West Australian State Government, declared that his property near Geraldton had seceded from the Commonwealth and would be known as the Hutt River Principality and he as Prince Leonard of Hutt. The Province commenced to issue passports and seek recognition from the Commonwealth and other countries. Although this has not been forthcoming, the Hutt River Province still maintains its publicity and royal household! (see http://www.wps.com.au/hutriver/citizen.htm).

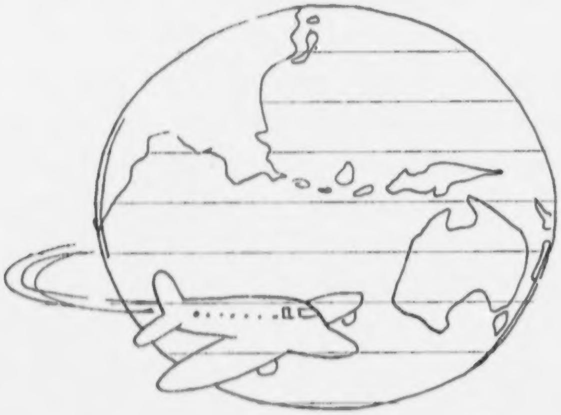
Discussion:

Should your area, or any other, have the status of a separate State on the Commonwealth of Australia?

Do you think that States or other areas should be able to leave the Commonwealth to become independent countries?

• Overseas experiences

Members of the learning circle may have experienced State government in another country. If so, they may be able to explain the similarities to and differences from the Australian State/Territory you have discussed.



• End of session

Some possible tasks are:

- What does each group member feel has been achieved in this session? Was it what you agreed at the start? Have you reached agreement on goals for the rest of the learning circle?
- Discuss whether the solutions suggested to problems (if any) in session two have been successful.
- Reflect on what has been learned and how.
- Are there other questions about State/Territory government to be considered? How will you deal with this? (Individual research, extra meeting, using some time in a later session.)
- Is it time to plan a visit from a speaker (e.g. a current or past State member or political party representative, or a visit to State parliament or other State government facility?)
- What arrangements have to be decided for the next meeting?
- Check that everyone is getting access to the resource material in the kit.
- Distribute photocopies of session four discussion notes

Next session—the federal system—chaos or balance?

Background document 1

Gungahlin top in population growth stakes

The Canberra Times 18 May 1998

SYDNEY: Gungahlin is Australia's fastest-growing area, a new population report has found.

The KPMG Population Growth report said Gungahlin came first with 15.7 per cent net growth, followed by the City of Sydney (14.6) and Palmerston (11.3) in the Northern Territory.

The report found that large rural centres were acting as "sponge cities" soaking up people from surrounding areas.

Cities such as Dubbo in central NSW had grown by 53 per cent in 20 years, while surrounding towns had shrunk under the trend, the report said.

Other examples of "sponge cities" included Wagga Wagga (NSW), Mildura (Victoria), Albury (NSW) and Horsham (Victoria).

Overall, the number of Australians living in the bush fell, more than 79 rural municipalities losing more than 20 per cent of their populations over the past 20 years.

The KPMG report, based on Australian Bureau of Statistics census figures, covered the period to the financial year ending June last year.

In Sydney and Melbourne, strong population growth continued, mainly in the inner cities and urban fringes, the report said.

Sydney's growth rate of 1.3 per cent would take the city's population past five million this year, it said.

Population growth in Melbourne continued to be sluggish—0.5 per cent—with continued strong interstate migration, mainly to Queensland.

Broken Hill (NSW) suffered the greatest percentage population loss with 1.6 per cent. Other cities with population decreases of more than 0.5 per cent were Tamworth (NSW), Whyalla (South Australia), Goulburn (NSW), Mt Isa (Queensland) and Greater Lithgow (NSW) and Grafton (NSW).

Tasmania recorded the first negative growth figures for any state since 1975, with -0.02 per cent. South Australia's population growth stalled at 0.4 per cent.

An exodus to Queensland from the southern states appeared to have eased, down from 2.6 per cent in the year ended June 1993 to 1.9 per cent last year.

Background document 2

Is the Northern Territory ready for Statehood?

From The Australian 1 January 1998

YES—SHANE STONE, NORTHERN TERRITORY CHIEF MINISTER

It is maturity, economic development and desire that make the Northern Territory ripe for statehood. When asked "why statehood for the Northern Territory?", my response is straightforward —"equality with our fellow Australians".

The critics are predictable. "Too hasty is the progression to statehood..."; "too small a population" (there are more than 180,000 Territorians)...; and "too reliant on Canberra for recurrent expenditure", they say.

Yet the Territory's population has increased by 60 per cent, more than double the national increase, in almost 20 years since self-government, and we have made the one sixth of Australia we occupy so productive our export earnings are 1.5 times the national average on a per capita basis. And we managed that rate without the railway legislated by the Federal Parliament in 1911 when the Commonwealth took over the Territory from South Australia.

The Territory's population is bigger than Western Australia's was when it agreed to join the Federation of Australian States, on condition that the Commonwealth build the Indian–Pacific railway to link Perth with the rest of the nation. And as a State, Western Australia could insist the Commonwealth did not welsh on the deal. Territorians have been forced to fight tooth and nail to gain Federal Government support for the vital Alice Springs to Darwin rail link.

The Territory is not proposing equal Senate representation. It proposed increased Senate representation to four seats on attaining statehood, on the understanding this would be progressively increased until we achieved total equality at some future point.

And any attempt to make comparisons between the Territory and the ACT are meaningless. The largely public service population of the ACT never wanted self-government, let alone statehood. The ACT is a comparatively small area, with all infrastructure—from roads and railways to hospitals, schools and even the high-tech city dump—installed and paid for by the Commonwealth.

Contrast it with the Territory. In the ACT there are no outlying Aboriginal communities to be supplied with health, education, housing, police and transport services, no commercial ports to be developed to establish links with foreign countries. Yet despite the massive amount of government-type infrastructure gifted to the ACT from Australia's taxpayers at self-government in 1989, all debt was assumed by the Commonwealth, allowing the ACT government to start with a clean slate.

In contrast, successive generations of Territorians struggled for self-government, as almost 70 years of Commonwealth control maintained us in a time warp, with no infrastructure, no industry, apart from two major mines, cattle and government administration, the most rudimentary road system and port facilities. Oh, yes, and a Commonwealth-incurred debt of $194.7 million in 1978 dollars or $586 million in

Background document 2

today's dollar equivalent—a parting gift from the federal family for its Northern Territory nephew.

Despite taking on the Commonwealth's own debt, in just 18 years the Territory has built Australia's finest all-weather road system over 1.4 million square kilometres of the most inhospitable terrain in Australia, piped central Australian gas through the Territory to fuel a modern, pollution-free power supply, provided health, education and social services to the scattered population of Australians who have made the Territory their home, and has almost completed a $76 million deep sea port development in Darwin harbour.

The Territory has borrowed to build this infrastructure, but the ratio of interest paid to total receipts (the accepted measure of a jurisdiction's capacity to serve debt) is no higher than the average of the States.

And social justice and Aboriginal interests were not jettisoned in the rush to develop and create jobs. Almost half the Territory has been granted to Aboriginal land trusts under the inalienable freehold title, the Territory Government has worked with Aboriginal people to develop schemes providing for thousands of training and employment opportunities for Aboriginal Territorians. The Territory is the only jurisdiction in Australia working on further constitutional development in active consultation with Aboriginies.

By the Centenary of Federation, the Territory will have been self-governing for more than 21 years. How long do we wait before we are given equality with our fellow Australians?

NO—ALAN WOOD, ECONOMICS EDITOR, THE AUSTRALIAN

Paul Keating once famously remarked that the best way to see Darwin was from 35,000ft on your way to Paris. This week down at ground level there is a statehood convention going on.

It is taking place in Darwin's palatial Parliament House, built with money borrowed from the Commonwealth to house the Northern Territory's 25 MPs at a cost of about $4.5 million per pollie. It seems a suitably lavish setting to discuss the Territory's push for statehood by the centenary of Federation in 2001—another expensive indulgence.

Most of the arguments against statehood for the Territory are well rehearsed, but no less valid for that. Its population is too small, its economy is insignificant and it is mendicant, heavily dependent on tax payers in NSW and Victoria.

While the Territory's economy is driven by Commonwealth money and mining, with Darwin in essence a garrison town for Australia's defence forces, kept going for strategic reasons rather than from any self-sustaining economic rationale.

The Territory's small population and narrow economic base makes it much more dependent on Commonwealth financial assistance than the States.

Commonwealth funds account for over 70 per cent of the Territory's revenue. Chief Minister Shane Stone's reply is that of the pigmy to the showgirl: size doesn't matter. But when it comes to statehood it does, and should.

Background document 2

Stone concedes as much in his efforts to have the Territory achieve statehood via section 121 of the Australian Constitution, which avoids a national referendum on the issue and instead would have it granted by an Act of the federal parliament.

This is an admission that Australians are too sensible to vote for something as patently silly as statehood for what amounts to a local council area that already has too many politicians...

Although Australia's Constitution was conceived as a federal one, since Federation there has been a steady shift of power to the central government via the Commonwealth's control of more and more of the nation's tax base.

The High Court's decision last year that State franchise fees were unconstitutional has increased the Commonwealth's share of national tax revenue to over 80 per cent, while the States are responsible for 55 per cent of expenditure.

This makes Australia the most fiscally imbalanced Federation in the world, and combined with High Court-assisted encroachments on State power in other areas, amounts to de facto abolition of the States. Unless this situation is reversed via reform of Commonwealth/State financial relations and a new agreement on roles and responsibilities in the Federation, then—as former Queensland premier Wayne Goss warned in 1994—the States will become dead weight in Australia's constitutional baggage.

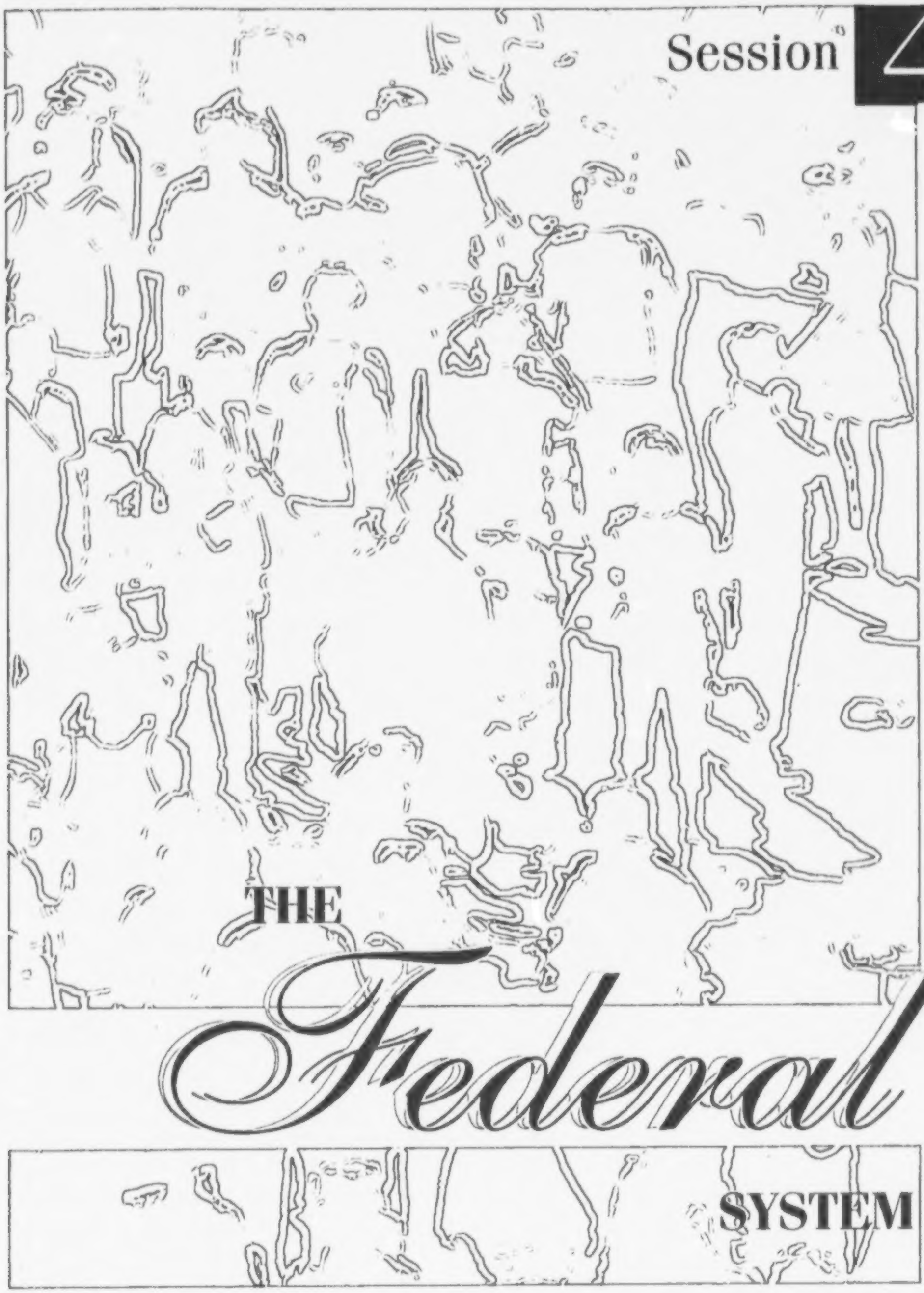
If this happens, then the States will be a real impediment to an efficient and competitive nation and "someone, somewhere had better begin to work out right now how to finally and formally get rid of the States", to quote Goss. Until this great national issue is resolved, the last thing we want is simply another Constitutional corpse chained to the Commonwealth's chariot wheels.

Even if the issue is finally resolved in a way that restores meaning to the Federation, it will be well past 2001 before the Northern Territory can make any serious claim to statehood.

ALA

DISCOVERING
DEMOCRACY

Session 4



THE *Federal* SYSTEM

BEST COPY AVAILABLE

• Introduction

The Australian federal system was the product of Federation in 1901. This event added an extra level of government, the Commonwealth government to the pre-existing colonial (State from 1 Jan 1901) governments and the limited local government level which had been established in the more populated areas of the colonies. By around 1910 almost all of the remaining rural areas of the States had been incorporated into local government areas. The Commonwealth government was created out of the pre-existing colonies and was achieved only, as Alfred Deakin said, by a "series of miracles". The federation movement ran hot and cold for a decade, and as late as 1898 the referendum failed in New South Wales, and WA had not even participated in the referenda. It took pressure from the gold fields and a nudge from London before the referendum was achieved.

The Australian Constitution has been referred to as 'the birth certificate of the nation', but it may be better to describe it as 'the marriage certificate between six sovereign State governments'.

With federation came a new federal Australian Constitution which founded some new institutions to preserve the States and establish a balance in the federal system. Especially important were the Senate and the High Court. The former guaranteed States equal representation in an upper parliamentary house which could review all the legislation of the lower, democratically elected, House of Representatives, whose single member electorates were based on electorates of equal population. The Senate could even reject though not amend money bills, which was an unusually potent power for upper houses that were founded in the Westminster tradition. The High Court was to be the arbiter of disputes between the new States and between the States and the Commonwealth in constitutional issues, as well as playing an important role as an appeal court for the Australian legal system, although appeals to the Privy Council in Britain were permitted until 1986.

The federal compact was not only about power, but also about money. These matters are dealt with in chapter four of the Australian Constitution. In 1901 the States had much bigger budgets than the Commonwealth. The latter would gain its revenue principally from the collection of customs duties on imports into Australia, taking over this role from the separate customs offices of the colonies These separate colonial customs departments also levied duties on inter-colonial travellers and traders, and the achievement of free trade within Australia was a main aim and achievement of the federalists. This was guaranteed by section 92. Under section 90 the Commonwealth would also have exclusive power over excise duties, but it was not until 1997 that this was finally enforced after the High Court case *Hammond Ha*.

The details of the new financial agreement are contained in section 87. This reads:

> *During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, of the net revenue of the Commonwealth from duties of customs and of excise not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.*
>
> *The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.*

So the Commonwealth would be the poor cousin of the States, and have its expenditure severely limited. Moreover, another section, section 96, allowed the Commonwealth to provide grants to the States, and this was a carrot enticing the reluctant States to join the federation. Ironically section 96 has become a weapon with which the Commonwealth now controls some of the States' expenditure. In 1901 there was to be a federal balance between allies of equal status and power.

This intention is very distant from the reality of contemporary federal relations. The federal balance has swung so far towards the Commonwealth that some argue that the States have outlived their usefulness and should be abolished. The rise of local government in the federal system has increased since the 1970s, and many would claim a more equal share for it in our federal system up to the point where regional local government groupings should supply the second sphere of government instead of the States. How did this turn around happen? How will our federal system develop in the next century? These are focus questions for this session.

Suggested activities

Activity 1: Foundations of federalism 3

Activity 2: Developments in the federal system from 1901: States' rights versus centralism 4

Activity 3: Premiers conferences—the theatre of the federal system 6

Activity 4: Ministerial Councils 8

Activity 5: The Senate 9

Activity 6: The High Court 10

Activity 7: Local government and federalism 11

Activity 8: New Zealand—de facto Australian State? 12

Activity 9: End of session 14

Resources:

Australian Constitution

A Nation at Last

'History in the Marking', *Sun Herald*, Nov 1997

Communique of the Centenary Constitutional Convention, Melbourne, 5 March 1998

• Foundations of federalism

There has always been a debate about the achievement of federation in Australia in 1901. Some see it as the political expression of a sense of national identity and unity—others see it as a deal between expanding economic interests who wanted a national government to take over the national responsibilities of defence, customs and communications whilst continuing the economic development of the States with the support (even collusion) of State governments dominated by those with most to gain from this development.

Talk of a united Australia had been heard from the 1840s and gained particular currency from 1880. A decade later the meeting of colonial premiers in Melbourne agreed in principle to the federation of the colonies and a convention followed in Sydney which drafted a Constitution which, substantially, became the Australian Constitution in 1900 when passed by the British Parliament and which came into effect on 1 January 1901.

The fierce independence and rivalry of the separate colonies and their distance apart meant that the idea of a union, with a single central government supported by local government as was the model in Great Britain, was never seriously discussed. Instead the federal republic of the United States of America, and to a lesser extent the federal republic of Switzerland, were the models favoured for Australia—but without the republic!

The guarantee of free trade between the new States under section 92 of the Constitution achieved a free market in Australia, protected by a national tariff levies which although reduced are still the subject of fierce political debate. However, the governments were not unified. In fact the revenue sharing arrangements and differing taxation powers have always led to conflict. None of the founding fathers anticipated that governments would grow to become huge organisations employing vast numbers of Australians and providing a wide range of services, although the granting of the power to the Commonwealth to provide old age pensions and their early introduction in 1910 provided a hint of these developments.

It could be said that the achievement of federation and the document which sets down its details—the Australian Constitution—was a product of its time and has little relevance to today's realities. Indeed some would argue it was out of date after its first two decades and that is why a Royal Commission was held into the Australian Constitution in 1927. Others would say it is an enduring document and our federal system is a sound basis for government into the 21st century.

Discussion:

Was the federal system flawed from the beginning or has it provided the framework for the growth and development of Australia?

• Developments in the federal system 1901–1988—States rights vs centralism

> *"The rights of self-government of the States have been fondly supposed to be safeguarded by the Constitution. It has left them legally free, but financially bound to the chariot wheels of the Central Government".*
>
> **Alfred Deakin, in his anonymous columns in the *London Morning Post*, 1902**

The story of federal relations in Australia can be looked at through the financial arrangements between the Commonwealth and State governments.

The agreement at the time of federation was that the Commonwealth, although collecting the customs and excise duties on a national basis would have to return at least three quarters of them to the States, based on a complicated formula. However, the federating colonies only agreed that this arrangement would last for the first ten years of federation. In 1909 the Commonwealth Government and State Premiers agreed to change to a per capita payment of 25/- ($2.50) with an extra general grant to Western Australia. With the establishment of the Commonwealth Grants Commission the role of the States and their Premiers in negotiating for the maximum amount of funds from the Commonwealth became more important.

During these years the Commonwealth's revenue base had widened. They had introduced income and company taxes in 1915 and sales tax in 1935. The Commonwealth had taken over State debts in 1910 and the Financial Agreement of 1927 gave the Commonwealth more power over States' borrowings. The Premiers' Plan to deal with the Great Depression and the Loans Council, which first met in 1924, furthered these controls.

Section 101 of the Australian Constitution says that an Inter-state Commission would be established 'for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder'. However, nothing was done until 1913 and its powers were limited by a High Court judgment in 1915 to administrative and executive functions. By the 1920s it had lapsed. In 1975 the Whitlam government's bill to re-introduce the body suffered many amendments in the Senate which meant it only had powers to investigate transport issues referred to it by the Minister for Transport and did not become a forum to discuss the fundamental issues of financial imbalance between the Commonwealth and States. It lapsed again in 1990.

The Council of Australian Governments (COAG), a product of the Special Premiers Conferences of 1990/91, offered hope to those who believed that this body would resolve the problems that had evolved in the federal financial areas. It provided a forum for co-operation between governments in the national interest; co-operation between governments on reforms to achieve an integrated, efficient national economy and single national market; continuing structural reform of government and the forum to allow consultation on major issues such as international treaties and major initiatives of any government which may impact on others. It was hoped the forum would develop into a Council of the Australian Federation, but the accession of Paul Keating to Prime Minister and the directions he announced in his "One Nation" statement in February 1992 altered this. The "financial" Premiers Conference continued to meet to formalise financial decisions, and the COAG meets irregularly to consider other issues.

The vertical fiscal imbalance which results from the Commonwealth raising the majority of revenue and the States spending the majority of this revenue gives the Commonwealth great powers over the nature of expenditure. Rather than grant these funds in general grants the Commonwealth had increasingly used special purpose payments, or tied grants, under section 96 of the Constitution to force changes on State governments. Currently Special Purpose Payments (SPP) are tied to the introduction of the National Competition Policy.

The Australian States raise payroll tax, land tax, business franchise, licence fees, stamp duties, bank account debit taxes (and some would say traffic and parking fines are a form of taxation) which contribute about 20% of total Australian tax revenues, but they spend 50% of public sector expenditures. The difference comes from the Commonwealth.

The Whitlam years redefined federalism. It initiated the use of Special Purpose Payments to social areas rather than traditional areas of development like dams and the standard gauge railway project in Western Australia in the 1960s. Money was provided for schools through the Schools Commission, to local government, and for housing and urban development, health and employment. These initiatives were condemned by supporters of States' rights as centralist interference or praised by their opponents as providing vital resources to State government to deal with social problems.

There are currently many programmes based on Commonwealth funds which are administered directly by the Commonwealth government. Examples include education, roads and forest programmes. All are areas that under the Constitution were reserved for the State and indicate how much the federal balance has changed.

Discussion:

What are the main advantages and disadvantages of increasing the Commonwealth's financial powers?

Taxation Revenue by Level of Government, 1993

	Australia	Canada	Germany	USA
Federal	75.6	46.9	51.5	54.3
State	20.4	40.2	35.4	27.2
Local	4.0	12.9	13.0	18.5

Source OECD (1996) Revenue Statistics of OECD Member Countries

• The Premiers Conference—the theatre of the federal system

> *"The meetings of the Premiers have tended to be a series of grandstanding events for home audiences and assertions of claims and rights at the State level that bear no resemblance to the negotiations that are seriously going on behind the scenes. That has not served the federation well."*
>
> **John Bannon, Premier of South Australia 1982–1992.**

The traditional arrangement has been for Premiers and Chief Ministers to fly to Canberra to attend the Premiers Conference to consider the recommendations of the Commonwealth Grants Commission. The State and Territory leaders tended to talk tough before going to meet with the Commonwealth Prime Minister and Treasurer to try to get the maximum amount of money granted to their government. This money could come as general purpose grants or as special purpose payments, but the bottom line is that the States and Territories have no Constitutional right to any of the money. Their guarantee in section 87 to at least three quarters of the Commonwealth customs and excise duties only lasted for the first decade of the federation.

At the Premiers Conference the State and Territory leaders gave press conferences complaining about the low level of Commonwealth support to their State or Territory. They would then fly back to their homes to criticise the mean Commonwealth government to their State and Territory residents. This criticism may have been reinforced by being able to blame the ideology of the opposing political party, if it had power in Canberra, but such is the depth of the concept of States' rights in Australia that their leaders must demonstrate their loyalty is primarily to their State and not the working of the federal system.

Federal–State financial relations have, however, been significantly changed by the *A New Tax System* package introduced on 1 July 2000 as all revenue received from the Goods and Services tax (GST) will go the States and Territories.

Of course, the process is more complex and subtle than the theatre of the Premiers Conference. There is not simply one meeting each year where these matters are decided. In 1996 following the Port Arthur massacre, the Commonwealth initiated talks to try to achieve uniform firearms legislation across all Australian States. As the regulation of fire arms is not a Commonwealth power this had to be achieved by agreement rather than coercion, although there were hints that the Commonwealth would use its control over imports and sales tax to restrict availability of weapons. There was not immediate agreement. Lobby groups in each State and nationally emphasised that any decision by government has a political aspect. Bumper stickers proclaiming "I shoot and I vote" reminded politicians of the eternal electoral implications of their actions. Although broad agreement was achieved, State variations prevented the achievement of completely uniform legislation, and there has been some changes to individual State legislation since 1996.

Disagreements about Medicare funding to the States in 1998 lead the State Premiers to walk out of meetings with the Prime Minister and Health Minister although the Commonwealth representatives maintained that the States were getting a better deal than previously.

Under the *A New Tax System* package which came into effect on 1 July 2000 all Goods and Services

Tax (GST) revenue will be provided to the States and Territories, to be spent according to their own budget priorities. Over time a range of State taxes will be abolished. Financial Institutions Duty will be abolished on 1 July 2001. Debits tax is scheduled to be abolished on 1 July 2005 (subject to review by the new Ministerial Council for Commonwealth-State Financial Relations comprising Commonwealth and State Treasurers). The Ministerial Council will review the need for retention of a range of business stamp duties by 2005. The Commonwealth will retain responsibility for the payment of financial assistance to local government. Premiers and Chief Ministers will be involved in further negotiations with the Commonwealth Government to achieve the best deal for their State or Territory.

Discussion:

- **How could the Premiers Conference be made more useful and effective?**
- **What strengths and weaknesses does it reveal about our federal system?**
- **What are the implications of the new tax arrangements for Federal-State financial relations?**

• Ministerial Councils

Because the States and Territories have constitutional control of so many areas of government in Australia there is the potential to have eight different sets of laws. Any of these may, and do, vary from one jurisdiction to another. Daylight saving arrangements vary from state to state, even within the same time zone. Fishing licences, another State matter, vary throughout Australia. Some States have 110 km/h as their speed limit, some 100 and the Northern Territory has no speed limit at all in rural areas. Abortion laws and their level of enforcement vary throughout Australia and this has led women to travel inter-state to terminate pregnancies.

Each State has its own legislature with the power to enact laws for that State's area and attempts by the Commonwealth to take over these powers to achieve uniformity or even to coordinate them in a voluntary way are resisted by those who claim that such actions are an attack on states' rights.

The use of Ministerial Councils to coordinate the legislation of the States and Commonwealth has been developed in recent times and now there are over 20 such councils in existence, many of which include New Zealand as a permanent member. The chairmanship of these councils is rotated between members. However, there is still a lot of variation and confusion with so many law making bodies in Australia. Apart from the Commonwealth and State Parliaments and Territory Assemblies, there are over 700 local government bodies which can make local laws or by-laws which apply in their local government areas.

Discussion:

Should there be more standardisation of laws in Australia? If so, how could this be achieved?

• The Senate

The Senate is an institution included in the Australian Constitution at the behest of the smaller colonies before they would agree to join the Australian federal Commonwealth. It also satisfied those who wanted a clear separation of powers in the new Commonwealth government. By ensuring that those small States-to-be would have the same voting power as the larger States with six senators each, they could always combine and outvote NSW and Victoria four to two and thus protect their rights. It was always assumed they would be defending the same rights! Thus, the Senate is one of the prices of federation. In fact at the Federal Convention in Sydney a vote was taken as to whether the proposed parliamentary chamber should be called the Senate or The States House. That the former title received the majority of votes did not disguise the purpose of the house—the championing of States' rights against a potentially aggressive Commonwealth government dominated by populous and economically powerful NSW and Victoria.

But all this debate was for nothing. A party system was already present at federation, but by 1910 it had hardened into rigid Labor and anti-Labor groups, whose level of party discipline and requirement for loyalty to those parties made independent or state-based votes on issues effecting the smaller States impossible. The Senate had become a party house, as had the House of Representatives. Thus it could be used to frustrate and embarrass a government which did not have a majority in that house, forcing it to early election or double dissolution. This power is made all the more potent because, unlike upper houses in other Westminster-style government systems, the Senate had almost co-equal powers with the lower house and can reject money bills. The doubling of its numbers over the years from six to 12 from each State and the inclusion of senators from the mainland territories has not broken this party hold over the chamber. However, it does have a special relationship with the States. Their Parliaments are involved in the issuing of writs for Senate elections and have the role of nominating replacements if a Senate vacancy occurs during a term of parliament. Possibly it would be more democratic to hold a by-election as is the case with the House of Representatives. One way to ensure the Senate's role as a States' House would be that State governments direct the vote of Senators from their State and this requirement is sometimes suggested.

The Senate (Representation of Territories) Act 1973 which granted two senators to the ACT and Northern Territory was challenged in the High Court by the four States with non-labor governments (NSW, Victoria, Queensland and Western Australia) claiming that section 122 of the Constitution precluded this representation. What they really objected to was the possible election of more Labor senators. In a four to three decision the High Court upheld the legislation, although the Chief Justice (Sir Garfield Barwick) objected to the legislation, claiming that it would 'subvert the Constitution and seriously impair its federal character'. The reasons for his judgment was that sections 7 and 24 of the Constitution make references only to senators representing States.

Discussion:

Does the Senate have too much power in Australian government? Does it help to preserve the federal compact?

• The High Court

Note: The Governance of Australia, a Civics and Citizenship Learning Circle produced by ALA for the ACE Sector as part of the Discovering Democracy programme deals extensively with the High Court in session 5.

The High Court was described by Alfred Deakin, a federal architect, as "...the keystone in the federal arch". Anyone who had read A.V. Dicey, or had studied other federal systems, like the USA and Switzerland, knew that "federalism meant legalism". The dream of a cooperative Commonwealth would have to be tempered by a court capable of resolving disputes between the federal partners. Thus the High Court was born. It has had a huge impact on the Australian federal system.

Its constitutional work does not arise in theory but when Commonwealth legislation is tested by another party (usually the States or an individual) through the process know as 'legislative review'. There have been many famous cases where Commonwealth legislation was found to be unconstitutional, and the legislation to ban the Communist Party in 1951 is one such case.

The general trend has been to decide in favour of the Commonwealth from 1920 when in the *Engineers' Case* the High Court decided that the Commonwealth did have the power to be involved in industrial conditions in State government instrumentalities. The *Uniform Tax* case of 1942 was another landmark and the States have not attempted to raise income taxes from that date. Another ground-breaking case was the Tasmanian Dams case in 1983 when the High Court decided that the external affairs power allowed the Commonwealth to legislate over areas which were the subject of external treaties. Finally, the Mabo and Wik decisions on Native Title have also revolutionised Australian politics which, combined with the 1967 change to section 51 (xxvi), have given the Commonwealth powers in areas that were traditionally the preserve of the States.

Optional activity:

Choose one of the above cases or another well-known High Court case which changed the federal balance in Australia and prepare a presentation for your learning circle.

Discussion:

Is the High Court really the 'keystone of the federal arch' or an undemocratic influence on Australia's federal system?

• Local government and federalism

The direct financial recognition of local government by the Commonwealth Government in 1973 at last made this sphere of government an independent partner in the federal system. This agreement allowed the provision of general grants on a per capita basis as well as specific purpose grants being made to local government bodies.

Local government was represented at the Special Premiers' Conferences in 1990/91 and has a seat on the Council of Australian Governments (COAG). Of course, local government representatives wanted constitutional recognition of their sphere of government but that campaign, which culminated in the 1988 referendum (See Session 2) failed.

As local government has raised its profile by adopting new management models, implementing microeconomic reforms, including competitive tendering and co-ordinating intergovernmental planning and provision of services, its position seems more secure but it still seeks constitutional recognition. However, the *Commonwealth Local Government (Financial Assistance) Act 1995* introduced a new framework for general revenue grants from the Commonwealth to local government which is based on the following principles:

- to enable each local governing body in a State to function, by reasonable effort, at a standard not lower than the average standard of other local governing bodies in the State; and
- taking account of differences in the expenditure required to be incurred by local governing bodies in performing their functions and in the capacity to raise revenue.

(For more details see *Intergovernmental News*, volume 8, number 2, Winter 1995)

Discussion:

Should local government be a formal and equal partner in the federal system? How could this be achieved?

• New Zealand—a de facto Australian State?

New Zealand has always had a close relationship with Australia. When it was claimed as British Colony it was declared to be part of New South Wales and when federation was being discussed in the 1890s it was expected that New Zealand would join. In fact, an opening exists in chapter 6 of the Australian Constitution, that new States could join after the Commonwealth had been declared. This is still the position, as this section of the Constitution has not been amended. Australians went to New Zealand to fight in the Maori wars (on the side of the white settlers) and more notably they jointly formed the Australian New Zealand Army Corps at the beginning of the First World War and their efforts at Gallipoli have been celebrated on ANZAC Day from 1916. Australian servicemen have always fought beside their New Zealand cousins in other conflicts and one battalion of the Australian Task Force during the Vietnam War was the ANZAC battalion. These close defence ties ensure that New Zealand representation continues in Australian defence planning.

Although formal political union was not achieved in 1901, economic union was achieved in 1983, with the signing of the Australia New Zealand Closer Economic Relations Trade Agreement between Australia and New Zealand—thus extending the benefits of section 92 of the Australia Constitution to New Zealand. Customs duties were abolished, passports were no longer needed for citizens of either country to enter the other country, residence restrictions were lifted and reciprocal access to government programs was established (with some amendments under a new Australia/New Zealand bilateral social security arrangement in February 2001). Bondi became the biggest New Zealand city outside of New Zealand, Kiwi shearers brought wide combs and individual contracts to the Australian shearing industry and New Zealand became a prime destination for Australian tourists.

New Zealand's political and social evolution has paralleled that of Australia—especially in the first decades of this century when its introduction of parliamentary democracy and social welfare programmes was a pace-setter for Australia. It even became a colonial power, supervising Samoa for the League of Nations and United Nations as Australia did for Papua New Guinea although it was more liberal in granting New Zealand citizenship to the Samoans than Australia was with Papuans and New Guineans. More recently New Zealand's path has been distinctive. Its response to

its indigenous Maori citizens has been framed on the foundation of a Treaty having been signed with them in 1840—the Treaty of Waitangi. It embraced the new free trade economic rationalism in Rogernomics and stood alone as an anti-nuclear nation and put itself outside the US defence shield. It abolished its upper house, kept voting voluntary and introduced a proportional representation voting system in 1996. Its local government sector is active and exercises broad powers.

So New Zealand has taken different approaches to Australia in many important issues, but many Australians would regard it as our closest neighbour although New Guinea, New Caledonia and Indonesia are physically closer. How will the relations between the two countries develop in the 21st century?

Discussion:

Should New Zealand have access to the Australian economy and social programs and government decisions without being part of the Australian federation?

• End of session

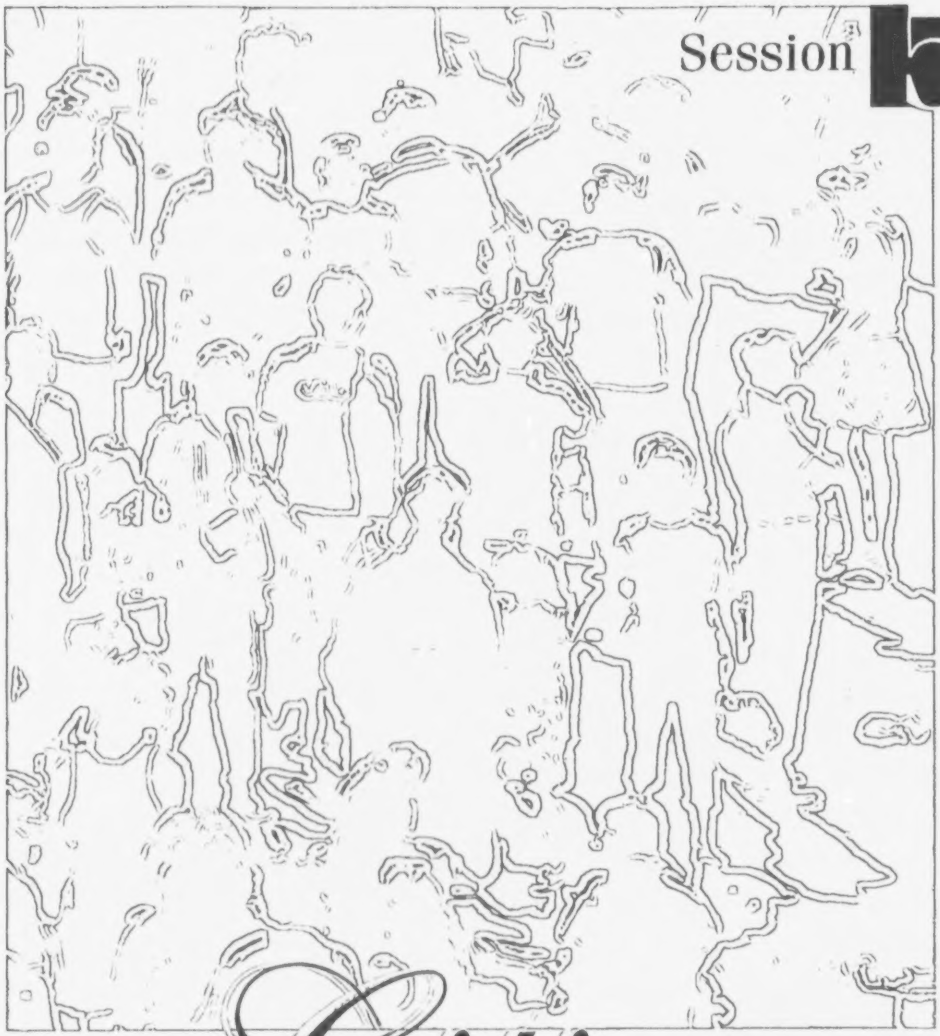
Some possible tasks are:

- discuss whether the solutions suggested to problems (if any) in session three have been successful;
- reflect on what has been learned and how;
- are there other questions about federal government to be considered? How will you deal with this? (Individual research, extra meeting, using some time in a later session);
- is it time to plan a visit from a speaker (e.g. a current or past member or political party representative, or a visit to parliament or other government facility?);
- decide arrangements for the next meeting?
- check that everyone is getting access to the resource material in the kit; and
- distribute photocopies of session five discussion notes.

ALA

DISCOVERING
DEMOCRACY

Session 5



Citizens
AND INTERGOVERNMENT RELATIONS

BEST COPY AVAILABLE

• Introduction

Note: This session will examine intergovernmental relations through a number of case studies and each learning circle is encouraged to make a selection which relates to their area/state or other basis of interest. You may even wish to research and discuss your own case studies which relate to the locality and/or personal experience of learning circle participants.

The aim of this session is to encourage learning circle groups to explore some areas of activity that impact on all spheres of government. First it is important to unravel the web of overlapping legislation, the multiple organisations and competing interests. This is not easy. By considering the case studies presented in this session guide, each group should be able to identify one which relates to their experience. Then they will be able to apply their local knowledge and, if necessary, do some local research to have a more fruitful discussion.

Alternatively, the learning circle may decide to discuss one or more of the case studies in a general way, and use it to examine what the Australian Constitution says, or doesn't say about these areas. If this approach is taken, the group might consider how they would amend the Constitution to take account of their ideas.

Suggested activities:

Activity 1: A Day in the Life—Citizen 1 2

Activity 2: Tourism—a holiday with the three spheres 5

Activity 3: Housing—urban development 7

Activity 4: Emergency management 9

Activity 5: Environmental management 10

Activity 6: Coastal management 12

Activity 7: End of session 13

Resources

Constitutional Referendums, AEC

• A day in the life...Citizen 1

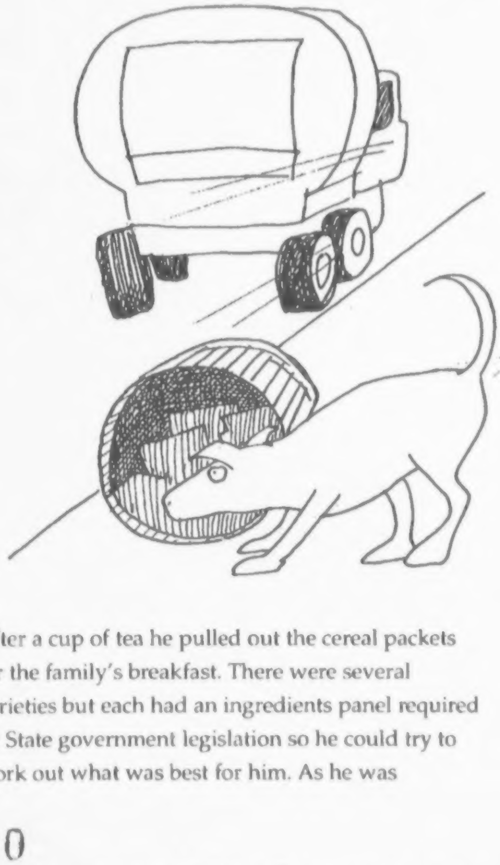
He woke at 6am. At least it was 6am this week. Last week it would have been 5am but under the Daylight Saving Act passed by the State Government a regulation had been made by the Governor in Council that it would end on March 25th. That time was now the same as the neighbouring States in the same time zone. These zones had been determined by an international agreement signed in 1884 and later ratified by the Commonwealth government.

He looked over at his sleeping wife and remembered noticing on their wedding day that their Marriage Certificate had been issued under the authority of the Commonwealth Matrimonial Causes Act. He was also aware that the Family Law Act had been passed by the Commonwealth parliament to introduce 'no fault' divorce and a special group of courts—the Family Law Court—to administer it. Matrimony and divorce were determined to be Commonwealth powers by the founding fathers as were parental rights and the custody and guardianship of infants.

In the kitchen he filled the electric jug and switched it on. Until recently both the water and electricity had been government provided—the water by the State government and electricity by an electricity county council, but now both services had been privatised and there was talk of competition between providers. He wondered what the role of State government would be once all their services—railways, roads, prisons, schools and hospitals—had been privatised. He thought that their consumer affairs departments may absorb all the redundant staff from the departments who used to provide the services to supervise the private providers. Maybe governments would always be large employers, but that their areas of activity would change.

He turned on the news and heard news of a proposed development in the next suburb, and that the development plan and Environmental Impact Statement required by the local council, would be available for inspection at the public library run by the council.

He suddenly remembered that it was rubbish collection day. He raced out with the bin but the truck had already gone by. The council had sent around a note explaining the day change but he had lost it amongst all the other notes on the fridge door. What he did notice was a stray dog looking for scraps in an up-turned bin and made a note to call the council dog catcher and to check the registration date on his own dog's collar.



After a cup of tea he pulled out the cereal packets for the family's breakfast. There were several varieties but each had an ingredients panel required by State government legislation so he could try to work out what was best for him. As he was dressing, he noticed again how many of his clothes were not made in Australia—a complete turnaround from twenty years ago as tariff duties on imported clothing and footwear (a Commonwealth responsibility) had been lowered.

He left for work early—before the family awoke. Both of his kids had to be at school by 8.30am—at least until they were 15 years of age. That was State government law. His wages, however, were determined under a Commonwealth industrial award.

He reversed his car onto the road and noticed that he needed fuel. He always used his local service station although there was a development plan proposed to change the area to a residential one. He liked the proprietor and his humorous sign when the Commonwealth excise had been increased on fuel—"Petrol 19 cents a litre plus government charges".

When on the road again he was held up by road repairs. A work team from his local council was repairing a road surface and replacing kerbing. He felt it was a worthwhile use of his rates money. It was more worthwhile than the bicycle path which wound along by the river and had only been completed after the council had paid top price to resume two residential blocks of land from resistant residents.

He was pleased when he got out onto the highway. It was better and faster—maybe because it was maintained by the State government Main Roads Department. He did wish that a fly-over could be put at the railway crossing, as he knew the railway was a State government department too—even if it was losing money! Strangely, the large airport in the city had been established by the Commonwealth government, although it was due for sale. Technically it was going to be leased to a private company. He wondered how that would affect his job.

While thinking about this, he noticed a flashing blue light and was pulled over for speeding and fined $120 which would go to the State treasury. After that expensive mistake he parked well away from work as he didn't want to pay a parking fine to his local council on the same day. It seemed like all spheres of government had a slice of the action in transport.

Time at work passed quickly—it always does for an electrician—as long as you know your trade and know the paperwork. He remembered when he had finished TAFE college and received his licence from the State government. That State government licence had been his meal ticket for years. When the building inspector from the council arrived at the first job, he wanted to know if the new insulation specifications had been met. They were part of new State government regulations arising out of some international convention on wiring and insulation signed by the Commonwealth government so that appliances made for export could go to any country that was a signatory. Likewise those imported from signatories would meet Australian government safety standards.

He drove down to a local take-away for lunch with some work mates, but couldn't have any chips because the council's health inspector had demanded that the oil in the deep fryer be changed that morning and the new oil hadn't heated up enough. Instead they had pizza. They could have food from any country in that street—Chinese, Thai, Indian, Vietnamese, Lebanese, and that all resulted—although indirectly—from the Commonwealth government immigration policy. He was sure that these immigrants had not been targetted as cooks. Probably they all had qualifications in some other trade or profession, but these were not recognised by Australian governments.

After work he stopped to get some things at the supermarket. Paying sales tax on these food items always annoyed him, but not as much as paying fuel excise duty. The Commonwealth demanded his income tax and these other taxes as well. As he pulled into the drive he collected his mail and noticed that the local council had sent him a rates notice. More taxes! He also remembered the Stamp Duty paid to the State government when they bought the house.

His family was at home, but his wife was unhappy. New State legislation meant that her working hours had to be changed. Because pollution monitoring had shown that emissions from the factory where she worked were above the allowed limit, the shifts had to be changed so that emission limits would not be exceeded. The State government inspector said that if they did not bring these changes in then the Commonwealth funds would not be available to the State for environmental monitoring.

They had a packet of ravioli for dinner because it was close to its use by date—a date required by the State food legislation. Also they had a bottle of wine and didn't begrudge the money spent by the Commonwealth government in promoting and developing the wine industry in Australia—but they did begrudge the Commonwealth excise duty paid as part of the purchase price.

They sent the kids to bed at 9.30 when an M-rated movie was about to be shown. The Commonwealth Office of Film Classification existed to guide parents and they decided that they would follow the advice. They believed that this was a useful function of the Commonwealth government and were glad it wasn't a State government responsibility as classifications could vary from State to State. Then they remembered the situation with pornographic films. It was illegal to sell them in all States but they could be sold in the ACT and purchased from there by mail order. Did this also apply to guns? They knew that there were variations in State firearms legislation and that a holder of a State firearms licence was able to use that licence to shoot in another State. Could shooters use firearms banned from sale and ownership in that State? That was confusing.

He knew that a drivers licence issued in any State or Territory could be used in any other State or Territory, as one could drive a car anywhere in Australia as long as it was registered in a State, but if one's permanent residence changed to another State then you had to abide by that State's laws. He remembered having to change drivers licences, vehicle registration, electoral registration, and use a different Australian Tax Office for his Income Tax return when they had moved. All that was worse than packing the furniture and finding a house!

It was nearly bedtime. He liked to listen to the news as he set his radio alarm clock. The main item that day was about a relief scheme for flooded bush towns. He fell asleep thinking that maybe governments do some good after all!

Discussion:

- **Do the three spheres of government in Australia mean there is too much regulation of our lives?**
- **Is this degree of regulation acceptable in a democratic society/country?**

• Tourism—a holiday with the three spheres

Tourism has been an impressive growth area of the Australian economy over the past 40 years. Increased domestic affluence has allowed Australians to travel in their own country to an ever increasing range of events. While doing so they stay in a vastly expanded variety of hotels, motels, caravan parks and convention centres, and dine at restaurants and clubs. They use the services of tour operators, hire car companies and travel agents. International tourists, carried by frequent jet services with relatively cheap air fares, boost the tourist industry even further. All three spheres of government are involved in tourism.

Local governments control developments for motels, shopping centres, golf courses, and other tourist attractions. They own facilities like caravan parks, local museums, sports facilities and local tourist/visitor centres. They manage beaches, rivers and estuaries.

State governments promote their States within Australia and overseas where they maintain offices in national capitals around the world (often side-by-side with tourist offices of other Australian States). They also own and manage State recreation areas and have a big voice in the planning of major developments—including those for tourism. They each have a minister for tourism, supported by a public service department. They are well aware that tourism is an important part of the economic activity of their State as it creates investment opportunities and jobs in creating and maintaining the infrastructure of the hospitality industry. Tourism uses resources and sustains employment to the point where in the ACT and Tasmania, tourism (both domestic and from overseas) is the most important sector in the economy.

The Commonwealth is equally active in the tourism area through the Office of National Tourism which had an allocation of $14 m in the 1997/8 Budget. Statistics and studies show that tourism is a vital sector in the Australian economy and tourists spend their money in Australia help to lessen the balance of trade deficit. Some would argue that a low exchange rate produced by Australian monetary policy is an advantage to Australia's economy by making Australia a more attractive destination for overseas tourists and limiting the opportunity for Australians to travel overseas.

But there is no mention of tourism as being any government's responsibility in the Australian Constitution. It was written at a time when wealthy people arranged their own travel, and poor itinerant workers who travelled extensively looking for work were hardly tourists! According to the doctrine that the powers of the Commonwealth would be specified in the Constitution and the residual powers would remain with the States, then tourism is clearly a State responsibility. Yet when the tragic killing of a young Japanese tourist occurred in Cairns in 1997 the Commonwealth Minister for Tourism, Andrew Thompson, was the person who gave the media conferences and whose image was presented overseas.

Although a Tourist Ministers' Council, with representation from the Commonwealth and States, meets regularly, it does not have representation from the local government sphere. It was this council which agreed in 1995 that the Australian Bureau of Statistics should recognise tourism as an industry in its own right and begin to collect data on that basis. Its work is to co-ordinate tourism in Australia, however the reality of competition between States and local areas for high profile events often tests this co-operative spirit.

Discussion:

Would the tourist industry in Australia be better off if only one sphere of government was involved in its coordination and promotion? If this proposition is attractive, should it be the same sphere of government for both domestic and international tourists?

Optional activity:

Consider a holiday in Australia. Private operators, State government tourist offices and individual councils (or groups of them) try to attract you to their State/area. All States have tourist offices in other State capitals. They advertise on television and in newspapers, magazines and junk mail. Leisure and holiday shows proliferate on television. Large bill boards greet you as you drive into any tourist town. Festivals promoting local features—historic buildings, wine, arts, bananas, picnic races—in fact anything slightly unique—are the go. Australians have become hooked on holidays and so contribute to their national and local economies.

Is this an industry which is so robust that it now needs no government support?

• Housing—urban development

The story of the development of Joondalup city to the north west of Perth in Western Australia has a character list that reads like Who's Who—Gough Whitlam, Tom Uren, Charles Court, Richard Court, Robert Holmes à Court, Professor Gordon Stephenson, Carmen Lawrence and Dr David Carr. The achievement of this dream for a new city in the 1970s took two decades to achieve and involved all three spheres of government. There were some monumental fights within and between the different spheres of government, but finally Joondalup was open for business.

Plans for new cities had developed in Great Britain and the USA after the second world war. The first was responding to the extensive bombing damage of its cities and the second to the trend that people were moving to the suburbs to escape the problems of inner city living. These movements were well studied by town planners in Australia who felt that the quality of life offered by a new city with traffic separated from residential and commercial areas and the incorporation of parklands was desirable and achievable.

In 1972 the Task Force on New Cities for Australia from the Commonwealth funded Australian Institute of Urban Studies, was made policy by the newly elected Whitlam government. Concerned about the concentration of Australia's population into a small number of State capital cities and their rapid growth it was proposed that new cities be established in each State and their development be promoted by the newly established Cities Commission. New cities proposed included Darwin, Townsville, Gosford–Wyong, Albury-Wodonga, Bathurst-Orange, Port Phillip, the Tamar region of Tasmania and Monarto in South Australia.

In Western Australia Joondalup was included in the NURDA report of June 1973—*The Report to the Australian Government: A recommended new cities programme for the period 1973–78*. The West Australian government had favoured a competing proposal for the city of Salvado—based on a steel mill between Yanchep and Moore River and its township near Lake Joondalup, but when the industrial base was not forthcoming the plan was shelved and the necessary State legislation was not passed.

The West Australian Parliament passed the Joondalup Centre Act in 1976, which included representation from all spheres of government in its management committee. Local government at the time was the small Wanneroo Shire Council. It was to grow into a huge city council in the next two decades. Wanneroo shire retained the normal planning functions of local government. The Act also recognised the partnership with the Commonwealth government. During this time "The States were wary and at times vehemently hostile, but where Commonwealth 'expansion' was accompanied by federal cash on relatively good terms, State cooperation was usually forthcoming". In 1973/4 the Commonwealth Cities Commission allocated $3.5 million for land acquisition. Crown land was available for the development as State Forest 69 covered much of the area. Ironically the change of Commonwealth government in December 1975 meant that the Fraser government withdrew support from the Cities Commission and the Joondalup project had to be carried forward without the assistance of the Commonwealth government.

The Joondalup Centre Bill also established the Joondalup Development Corporation and Robert Holmes à Court was appointed as its chairman.

This powerful body had some monumental tussles with the Wannerroo Shire Council and the State government. By 1978 however the initial battles had been fought and the infrastructure works for roads and water supply had been commenced. It was time for another player to enter the Joondalup project—private developers who would provide the housing and commercial facilities. At the same time the State government was committed to constructing a new hospital, Shire Council offices, schools and police stations in the area.

Opinion:

"Never have the people of an Australian city had a better chance than those of Joondalup to work in harmony, to live in harmony and to relax in harmony. Their city is environmentally sound, functional in a holistic way, and above all, beautiful. And so it had been planned from the beginning." Stannage p. 232.

"The City of Joondalup is Australia's most successful 'new town' in history and in prospect, and it is the nation's only environmental and post-modern city." Stannage p. 234.

Based on Tom Stannage (1996)
Lakeside City The Dreaming of Joondalup
University of WA Press Nedlands.

The long period of the Joondalup development involved many aspects of co-operation and dispute between the three spheres of government. It could be argued that without Commonwealth leadership it would never have started. State government could claim to be the force which carried the project through. But local government had a vital role to play as well, and it is responsible for providing vital services to the new city on an on-going basis.

Discussion:

How well does our federal system work when involved in large development projects like Joondalup? (Other examples you may like to explore are The Snowy Mountains Scheme, the management of the Murray–Darling Basin and Mascot airport in Sydney.)

• Emergency management

Darwin 1974—Cyclone Tracey; Nyngan 1990—floods; Katherine 1998—floods; Queensland/Monaro region of NSW—all the time—drought; Granville 1977—rail disaster; Blue Mountains 1995—bushfires; Victoria 1983—Ash Wednesday bushfires. These are all natural disasters that involved all three spheres of government.

Emergency services are usually the first to respond to disasters. Police, fire brigades, ambulances are usually the first to be mobilised. These are principally State/Territory services and there exist coordination groups to consider the situation and apply disaster plans which have been previously decided. These coordination committees are often connected with local government as local governments have resources in trained personnel, vehicles, plant and communications which may be of use.

The coordinating bodies, established under State/Territory legislation may decide to mobilise other resources like the State Emergency Service, which in New South Wales is a combat agency which exists to respond to storm, tempest and flood problems. The Vehicles Rescue Association may be used to respond to traffic disasters. Rescue organisations also exist, regulated by that State's Rescue Act. Rural Fire Brigades (previously Bush Fire Brigades) are regulated by a separate piece of legislation and coordinated by local and district emergency management committees.

State Emergency management authorities have three main functions: deciding funding of emergency services, planning for emergencies and coordinating emergency management when a disaster happens. However, the Commonwealth government is also involved in this area.

In 1974 the Commonwealth Cabinet approved the establishment of the Natural Disasters Organisation (NDO). This organisation absorbed the Civil Defence Directorate in the Commonwealth Department of the Interior and would coordinate the Commonwealth resources to States and Territories in the event of a disaster and assist them to improve their disaster management capabilities. The first natural disaster responded to was Cyclone Tracey in December 1974.

In 1984 the NDO was given the additional task of coordinating Australian assistance to Papua New Guinea and the South Pacific Islands. The name was changed to Emergency Management Australia (EMA) in 1993 and the organisation has its headquarters in Canberra and a training institute at Mount Macedon in Victoria. (For more information see URL http://www.ema.gov.au). This organisation can recommend conditions on Commonwealth funds going to State and local bodies so that emergencies are prevented. For example, funds for urban development may only be available if those areas developed are not in areas of high bushfire or flood danger.

The Commonwealth also responds to emergencies in other ways. The most usual is the use of military personnel but also it responded to the Blue Mountains bushfires in 1994 by paying all firefighters $100 a day through the Commonwealth Department of Social Security and making more money available to the State Government to build up volunteer fire fighting services.

Discussion:

Do you think that emergency management should be a centralised government function in Australia, rather than relying on the co-operation of the three spheres of government?

How well do emergency services in Australia assist citizens?

• Environmental management

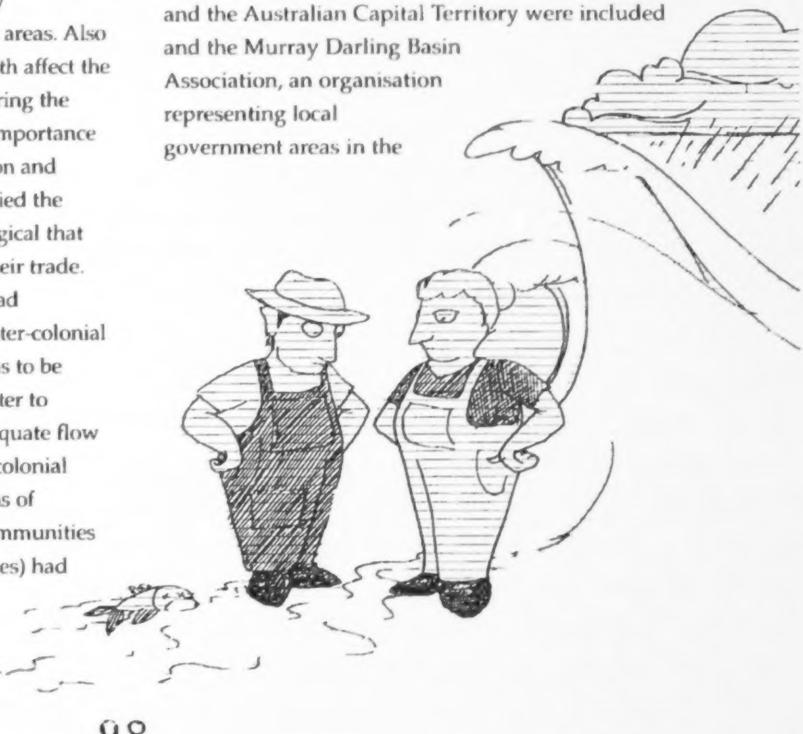
The Murray–Darling Basin Commission is an outstanding example of a co-operative arrangement between the three spheres of government and community groups to a common problem—environmental degradation.

The Murray–Darling Basin covers a seventh of Australia's area and parts of five of its states and territories. Its principal river, the Murray, forms most of the border between New South Wales and Victoria, and the delay and costs incurred by the customs houses situated on it were a key incentive to federation in 1901. The basin is the site for the earliest recorded human occupation of Australia and its pastoral, agricultural and mining industries are diverse. Its ecology is also diverse and rich. Unfortunately, it also has environmental problems, including blue-green algae and salinity.

There are common concerns throughout the Basin, yet it is affected by five state and territory jurisdictions and many local government areas. Also the national policies of the Commonwealth affect the basin. The founding fathers, when preparing the Australian Constitution, recognised the importance of access to water for navigation, irrigation and domestic use. In 1901 paddle steamers plied the Murray and Darling Rivers and it was logical that different state laws should not impede their trade. Also from the 1880s irrigation schemes had flourished in the separate colonies and inter-colonial disputes about reliable access to water has to be addressed. The question of storage of water to supplement the seasonal and often inadequate flow was important, and would require inter-colonial co-operation. Finally, the unique problems of Adelaide (and other South Australian communities without their own domestic water supplies) had to be addressed. They needed some guarantee that potable water from the Murray River would be always available.

This whole area was one that the Constitution framers would have expected the Inter-State Commission (see Session Four) to address, but its failure to develop into an effective body may be seen as one of the lost opportunities of Australia's federal story.

A conference at Corowa in 1902 laid the foundations for the formation of the River Murray Commission in 1914. This body included representatives from the Commonwealth, New South Wales, Victoria and South Australia. Its first priority was the reliable supply of water and consequently set about planning and erecting the Hume Dam and a series of locks and weirs along the rivers' length. As the question of water quality became more pressing the Commission was expanded in name and responsibilities and a new body, the Murray–Darling Basin Ministerial Council, was established in 1985. Both Queensland and the Australian Capital Territory were included and the Murray Darling Basin Association, an organisation representing local government areas in the



basin, gained recognition. All three spheres of government had become formally involved in the management of the basin.

This arrangement is a good example of co-operative federalism. Formally, the States retained the responsibility for land management under the Australian Constitution, but the Commonwealth has been able to use its resources and prestige as a national body to provide leadership and co-ordination. Although it could be argued that the situation of the Murray–Darling Basin is unique, it is possible that such co-operative solutions could be applied to other areas of Australia's federal system.

Discussion:

How well had the Murray–Darling Basin been served by Australian federalism?

In considering this question you may like to consider the following:

- **Are the State borders a useful division in their current location—or anywhere!**
- **Would it be better of the Murray Darling Commission had control over this area rather than Commonwealth, State and local governments?**
- **Is control by non-elected bodies like the Murray Darling Commission undemocratic?**
- **Is there a case for creating the State of The Murray–Darling Basin?**

• Coastal management

The learning circle *Who Built the Sandcastle?*, published by ALA in 1998, explores coastal management. Although it does not only focus on the roles of the three spheres of government in this area, it introduces this area in the section "Who manages your patch?" in Session One. Learning Circle kits on Coastal Management, Blue Green Algae and Dryland Salinity are available from Adult Learning Australia. Please contact Learning Circles Australia on 02 6251 9889 for more information.

• End of session

Some possible tasks are:

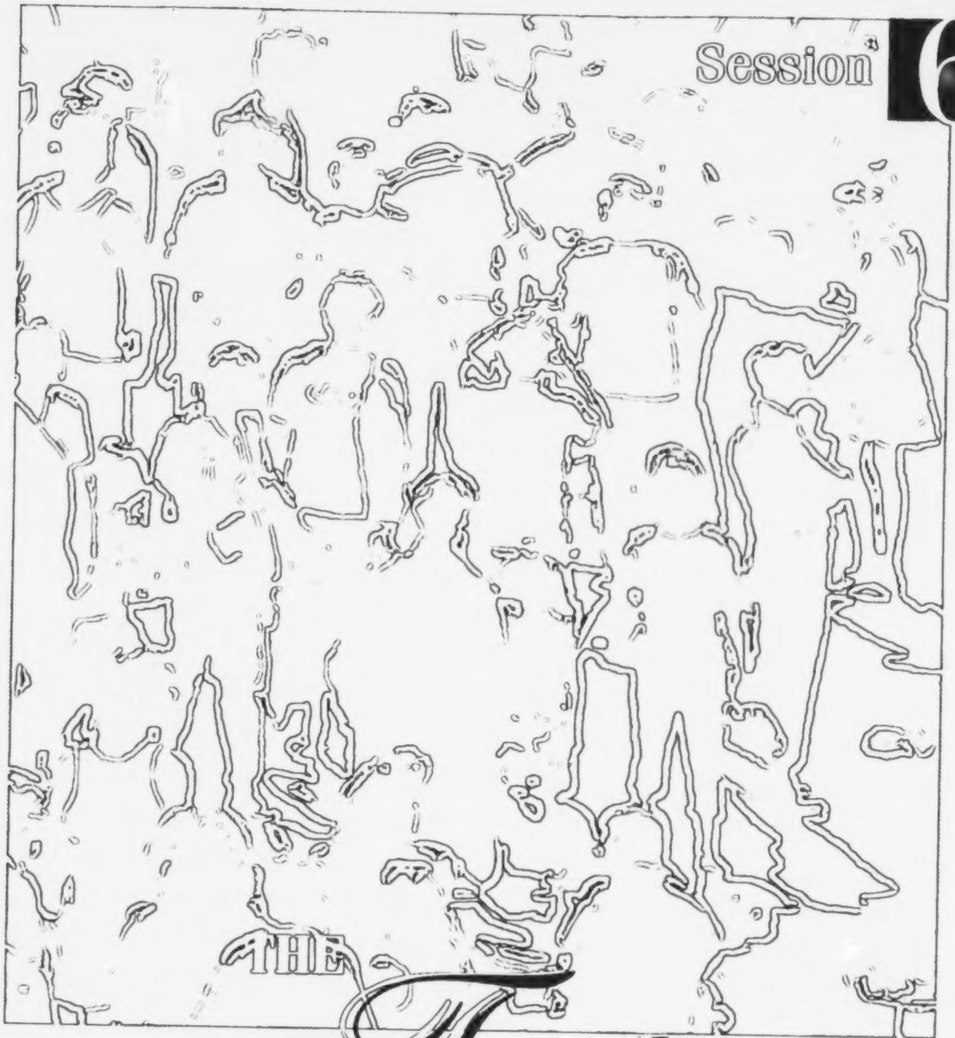
- reflect on what has been learned about the activities in this session. Do you want to follow up on any of them? This could be done by individual research, an extra meeting, making a visit or using some time in a later session
- is it time to plan a visit from a speaker? (e.g. a current or past member or political party representative, or a visit to parliament or other government organisation)
- what arrangements have to be decided for the next meeting?
- check that everyone is getting access to the resource material in the kit
- distribute photocopies of session six discussion notes and map
- are there any special arrangements for the next meeting, given that it is the last?

Next session—The future of the federal system

ALA

DISCOVERING DEMOCRACY

Session 6



THE Future OF THE FEDERAL SYSTEM

BEST COPY AVAILABLE

• Introduction

The previous sessions in this kit have encouraged the learning circle to look, from a citizen's perspective, at the three spheres of government in Australia and see how they work with and against each other. You may have identified productive elements of Australia's federal system and also revealed some defects. The learning circle should have developed a better understanding of how this system is reflected in the Constitution and the difficulties of changing the system through constitutional referendum. Finally, learning circle participants should have developed their knowledge and ideas of how the three spheres of government affect them, both in their daily lives and their political activities.

This session encourages you to discuss the further development of Australia's federal system and your possible involvement in this. Should the federal system be re-designed, merely undergo some technical changes or be retained in its current form? What actions may citizens take if they wish to be involved in this process of changing or defending the current system?

A starting point for this discussion is an assessment of how well the federal system has served us to now. Has a system, born in the late nineteenth century, delivered the stability, unity and opportunities it promised? Has the federal system aided the development of Australia and facilitated its response to changing social and political trends since 1901? What are the strengths and weaknesses of our federal system in relation to fostering a system of democratic government in Australia? Has it served the national interest?

The major trend in Australia's federal system has been the increase in power and wealth of the Commonwealth government. Most of the eight changes to the Australian Constitution approved by referenda have increased the Commonwealth's influence. For example, they have been granted powers to take over state debts, social security arrangements and to legislate for indigenous people on a national basis. Some key decisions of the High Court have also confirmed Commonwealth legislation which has increased the influence of that sphere. To some these were changes which produced a desirable national uniformity. To others they were significant erosions of "States' Rights" and the need for legislative diversity.

And then there is Canberra itself. This city is one of the most obvious products of federation. To satisfy the competing claims of Sydney and Melbourne to become the national capital upon federation, a compromise was reached. It was decided that it should be located in a separate territory drawn from the state of New South Wales, but be more than 100 miles (160 km) from Sydney. However, until that site was decided and the capital built, the Commonwealth Parliament would meet in Melbourne. It did so from 1901 to 1927. Any changes to Australia's federal system must have implications for Canberra.

In an era when smaller government is a commonly advocated and practised, the national capital is often criticised and its residents affected by the cut backs in public service positions. Extreme critics, like pollster Gary Morgan, have claimed that Canberra should be "moved to Sydney"! Many Australians have visited the institutions of national achievement and government in Canberra as tourists. That city's growth and future could be fertile topics for discussion.

Australia's federal system has been thoroughly studied and discussed from its beginning. Many changes have been suggested. They include the creation of new States, the abolition of the States and the boosting of the powers of local government. Also proposed are changes to fiscal arrangements to overcome the current situation where the Commonwealth collects most taxation revenue yet the States and local government spend the majority of it. Conversely others would suggest the extension of uniform national taxation to raise all government revenue.

The centenary of federation and the Australian Constitution in 2001 have been promoted as a focus point for discussing these issues, although the failure of a campaign linking constitutional change and the celebration of the Bicentenary of 1988 has also made some cautious of this approach. In itself, this is a question worthwhile discussing.

Finally, this session is an opportunity for participants to consider what they will do after the learning circle finishes. It is possible that the group has decided to continue to meet, and either use other learning circle material or to organised its own learning. Participants may have also considered extending their learning through involvement in local community groups, seeking election, joining political parties or special interest groups or further study. You may be able to support others in the group to achieve their aspirations.

Whatever your response, it is probable that civics and citizenship activities will be part of your future.

Suggested activities:

Activity 1: Attitudes to the federal system	3
Activity 2: Design your own system	7
Activity 3: Some possibilities for Australian governance	8
Activity 4: An historical simulation	10
Activity 5: End of session	11
Activity 6: Activities for active citizens	12

Resources:

Australian Constitution

Blank map of Australia

• Attitudes to the federal system

In March 1998 the last of the Centenary Constitutional Conventions met in Melbourne. It was organised to celebrate the centenary of the constitutional convention held in that city 100 years before, at which the draft Australian Constitution was finalised before being voted on in the referenda of 1898/9 and 1900. The theme of the 1998 convention was Federation: into the Future. It listened to various key-note speakers, developed reports, debated these recommendations and finally issued a communique.

Amongst the opinions offered to the convention were the following:

> *"Federation has been subjected to some strains and stresses over the years and, like many of our public institutions and structures, it is in need of some renovation and modernising.*
>
> *A new partnership between the commonwealth and the states needs to incorporate a more effective federal compact and shared roles and responsibilities between the commonwealth and the states to serve the people more effectively, and tax reform, and reform of financial relations are obviously very important if Australia is to be more competitive as a nation.*
>
> *I have become concerned that the recent debate has focused on aspects of tax reform other than the commonwealth–state relationship. The heart of the issue from the state's point of view is that constraints on our revenue have seriously undermined our capacity to deliver to our citizens the services they expect and demand. Our own tax base is inadequate and insecure, and we are therefore reliant on federal government funds, and they are becoming increasingly tied to federally determined outcomes."*
>
> **The Hon. Jeff Kennett, Premier of Victoria**

"Canberra, Australia's greatest self-made disaster, should now be moved to Sydney—they deserve each other!

Australians in total are evenly divided on who should take responsibility for most areas of government. The figures were: federal government, 46 per cent; individual state and territory governments, 39 per cent; and 15 per cent were undecided. When Australians were asked whether federal or state governments should be responsible for 16 different areas of government, large majorities named the federal government as having responsibility for defence, immigration, the tax system, the legal system, Aboriginal issues, technology, social welfare, health, industrial relations and mining.

Opinion was more evenly divided on the following areas: unemployment, 55 per cent federal and 39 per cent state; education, 53 per cent federal and 43 per cent state; primary industry, 47 per cent federal and 47 per cent state; and the police force, 42 per cent federal and 53 per cent state. In New South Wales the reverse was the case, more people wanted the federal government to run the police force. Large majorities named the state governments for the areas of tourism, 60 per cent, and community services, 67 per cent. Support for tourism as a state responsibility was lowest in Victoria, which is interesting as it was generally accepted that the Victorian government had been the most successful state government in marketing tourism.

As to the issue the holding of sessions of federal Parliament in the capital city of each state or territory on a rotation basis, 47 per cent of Australians approve or agree, 43 per cent disagree and 10 per cent are undecided. If it were properly explained and the cost savings were counted, I am certain Australians would vote for such a proposal.

These measures are only about getting our house in order before we take our place in the global arena. If politicians are in doubt, as they seem to be, they should take note that the people want them to deal with the real issues. The real question today is not whether state and federal governments are willing, able or brave enough to try to make the much needed change, but whether they will succeed. The Asian crisis means that major change is needed in Australia. If change does not take place, we need to destroy the federal system of government as we know it and start again!"

Gary Morgan, Director,
Roy Morgan Research Centre Pty Ltd

"[The Council of Australian Governments] COAG went on to agree to set up some new institutions and processes that involved a new approach to the federal–state partnership. For example, the Australian Competition and Consumer Commission and the National Competition Council were established. These bodies are not purely commonwealth bodies nor are they just state bodies; they are a new class of national institution which is based on federal–state cooperation and establishment. For example, the ACCC derives its powers and performs its functions under both federal and state laws. Both are needed now under the Trade Practices Act.

The National Competition Council is of a broadly similar character. It has another important federal role: it oversees the other elements in the development of national competition policy. For example, it judges whether commonwealth payments should be made to the states on the basis of their record in the reform of competition law."

Professor Allan Fells, Chairman, ACCC

"What are the advantages of federalism? Briefly, to enhance democracy and to provide a multiplicity of avenues for popular participation for political activity—a multiplicity of governments to deal with complex policy areas. Some people with simple ordinary minds would perhaps prefer one person at the top making all the decisions and hope that that person—or government—might be right; I believe policy complexity is better addressed by a multiplicity of governments in different policy arenas."

Professor Brian Galligan, University of Melbourne,
author of A Federal Republic.

"...federalism, the principles for this are said to be 'division of legislative (and therefore executive) powers between the central government (the Commonwealth) and regional governments (the states)'.

The result of centralism is therefore that the states have access to few growth taxes. As noted by the Premier yesterday, the states are obliged to have recourse to an unsatisfactory tax base relying on narrow, regressive, avoidance-prone and inequitable devices such as stamp duties. States have also been driven to enlarging gambling revenue, with adverse social consequences.

I believe there could be no greater love of the commonwealth than that the states should make their own exits—or to put it more charitably, there could possibly be only two levels of government in Australia, central and local.

In conclusion, after 100 years it should be possible, at least respectfully, to consider converting the states into local governments. Is it not true that Australia is overgoverned? Is it not remarkable that the Northern Territory has a Parliament building costing $200 million when those elected to it sit or debate for only 23 days a year while serving a population which is as big as that of Geelong? Is it not extraordinary that the ACT, whose population is one-seventh the size of Melbourne, has a chief minister? In the presence of Melbourne's Lord Mayor, may I ask rhetorically whether this fine chamber would not do equally well as a town hall?"

Dr John Nieuwenhuysen,
Chief Executive, Committee for the
Economic Development of Australia

"We are not over governed; we do not have too many levels of government. We have the number of levels of government that are seen around the world as the most acceptable, democratic and effective way of organising a nation. Of the 24 OECD countries only five do not have a clearly delineated three-tier structure, one of them being Luxembourg. They are all very small geographically. Countries like Australia have adopted the system for good reason—because it is the most effective. That does not mean it is totally efficient or that it cannot be reformed, but to talk about abolition is simply to duck the issues. There is the threshold question of whether or not we could abolish the states. One just needs to examine the Constitution and consider the difficulty of constitutional referendums. One needs to understand that the states can only be abolished, or their boundaries changed substantially, if the citizens of those states are prepared to accede. So even it 80 per cent of the rest of Australia said it was a damn good idea to get rid of Tasmania, South Australia or whatever, that would have no effect unless their citizens agreed.

As a first point, I suggest, that the Council of Australian Governments should be renamed as something like the Council of Australian Federation to more accurately depict its role. It should be consolidated and have a regular timetable. Ideally there should be national legislation to ensure that regular consultation occurs. It should have a joint secretariat, perhaps with rotational responsibilities. It should have a program of work and regular meetings that go beyond the current fairly informal arrangements, under which it is still at the discretion of the Prime Minister to either call a meeting or put it off for a further six months."

The Hon. John Bannon,
Premier of South Australia, 1982–1992.

"As far as the disadvantages are concerned, if I could just highlight that last one about magnifying problems in the functioning of parliaments. I am not convinced that the federal system is responsible for corruption and low quality of MPs, if indeed that is a problem we have. There may be all sorts of other things about the way in which our system of government works that account for that, but I do not think it is necessarily federalism. On the other hand, I think it has magnified problems in the functioning of parliaments, and in particular the problem of executive domination, which is a manifestation of the federal system. If I can add one more advantage, again looking to the likely circumstances of the world in the next few decades, I think our experience with federation within Australia, and in particular with cooperative federalism, provides an experience of power sharing which could inform the Australian contribution to regional and international activities as they become increasingly important."

Prof Cheryl Saunders, Melbourne University,
Deputy Chair, Constitutional Centenary Foundation

"...I suggested that we should delete all of section 51 of the Constitution, apart from the introductory words, which say, 'The parliament shall, subject to this Constitution, have power to make laws for the peace, order and good government of the commonwealth'. That means that there should be concurrent powers of the commonwealth and the states in relation to all matters."

David Solomon, journalist *Courier Mail*,
author of *Coming of Age*

"When our group met this morning to look at the role of local government, the first thing we recognised was that local government did not form part of the federation documents. As such it has no official recognition at that level. We also recognised that there is a great deal of diversity in how local government operates and there are significant differences between local governments. If one takes the examples of Sydney, Melbourne

and Brisbane, one finds that Sydney and Melbourne councils cover mainly the CBD area with other councils surrounding them. Brisbane has a very large council covering virtually the whole of Brisbane. In Sydney and Brisbane Lord Mayors are elected; in Melbourne the Lord Mayor is appointed. The situation is quite different in whole areas of local government.

The point was made that local government is important in the sense that it is the most accessible form of government and acts as a conduit to other levels of government. At times local government also becomes the punching bag, particularly of state governments. It often spends a fair amount of its time defending itself against the actions of other levels of government. There is an important role for local government, especially in the development of small business and in regional areas, and it plays a very special part in that role. Lack of executive authority on some councils was discussed and Melbourne, of course, was quoted as an example."

**Mr Clive Bubb, Chief Executive Officer,
Queensland Chamber of Commerce**

"I look upon local government as the third gear in the three gears that should mesh together to make federation. Local government, being without doubt the closest to the people, relating with the communities both business and residential on a daily basis, gives you that great sense of democracy that you cannot possibly get from something that is more removed, such as a state or federal government.

One hundred years ago in this building our forefathers set about on the two gears; it was not appropriate at that time to look at the third gear. Today we have the opportunity to look at the third gear by sending out a message that says local government is the gateway to democracy. If we want to get serious about it, we should get serious by giving it recognition in the Constitution."

Cr Ivan Deveson, Lord Mayor of Melbourne

"I agree with John Bannon that commonwealth–state relations need to be placed on a more certain footing, but I think the key is to go the next step and identify an appropriate mechanism. The mechanism I suggest would give both the commonwealth and the states an effective voice in fiscal decision making. I believe there needs to be a new commonwealth–state financial contract that would cover all major aspects of fiscal decision making. The premise of the contract would be based on a constitutional power to enter into agreements comparable to section 105A of the Constitution. By providing a constitutional basis for this contract we would be making clear that we are serious about federation and intended to provide all participants with effective voices."

**The Hon. John Brumby,
Leader of Opposition, Victoria**

Discussion:

Why do people have different opinions about Australia's federal system? Can they be reconciled? What is your opinion about the difficulties and future of the Australian federation?

• Design your own system

It is often said that politics is the art of the possible. When the difficulties of formal constitutional change are acknowledged this dictum can stifle imaginative consideration of our federal system. This activity encourages the learning circle to be imaginative by designing a system of governance for Australia by starting with a blank sheet.

Consider this scenario. Although Australia is otherwise the same, all traces of political institutions, boundaries and history have disappeared. Along with the disappearance of these features, no-one can remember what had existed before. This situation allows for a completely new start to Australian governance. Given this opportunity what would system would you develop?

Some of the questions you may consider are:

- Should there be any political divisions? If so, where?
- How many spheres of government should there be?
- What should be their responsibilities?
- How will governments raise their revenue?
- How can democracy be sustained?
- What sort of political institutions should be put in place? Should they reflect the realities of Australia's population, resources and future or can they be developed from theoretical models?
- What sort of electoral systems should be used?
- What constitutional arrangements should be made and what procedures should be available to change the Constitution in the future?

Activity:

Using a copy of the blank map of Australia, draw in the political divisions, if any, you think would achieve a better system of governance for Australia. Use this in the following discussion.

Discussion:

Learning circle participants could decide to explore these exercise individually before their meeting. At the meeting they could discuss their model in pairs. After explaining, and possibly mending their model with a partner, then the models could be discussed by the whole group. Finally, the group may work towards developing a model which satisfies everyone.

• Some possibilities for Australian governance

Since 1901, many changes have been suggested to the federal system. Those requiring formal constitutional change have not been achieved, although secession from the Commonwealth was supported by West Australian citizens in a state plebiscite in 1933. Other developments have been achieved without formal constitutional change. Some of the suggestions are:

- **Greater co-operation between local government bodies.** Although local authorities have often been created under state legislation to deliver services to areas covered by more than one local government body, there has been a trend in more recent years for local government bodies to join in co-operative regional groups to co-ordinate their services, standardise their by-laws and better lobby State and Commonwealth governments. These groups use the title Regional Organisations of Councils and in Sydney, for example, there is SYNROC and WESTSYNROC. In rural NSW, councils in the Parkes area have formed the CEZ—Central Economic Zone.
- **Regional Committees.** Regional divisions have a long history in the Australian states where State governments divided their States into administrative regions which did not necessarily conform to local government areas. This practice has been used by the Commonwealth government, for example, through Area Consultative Committees. These committees recognise that solutions to problems of unemployment need to take a wider, regional perspective. Usually these sorts of advisory groups include representatives from all three spheres of government and community and industry groups.
- **Changing state boundaries.** Dissatisfaction with state boundaries has been most common where they run through areas of continuous population. This is most evident along the Murray River (most notably Albury/Wodonga) and the state boundary between northern NSW and southern Queensland (most notably Noosa/Tweed Heads). Also the areas of New South Wales contiguous to the ACT reflect this problem. In all these areas children may attend schools in states/territories where they don't reside, public hospitals may have patients who do not reside in their states and the communities may be affected by variations in state/territory legislation which leads to confusion. An example is the variation in daylight saving legislation between New South Wales and Queensland. The Australian Constitution requires that Commonwealth electoral boundaries do not cross State boundaries, and this requirement can divide 'natural' communities.
- **New States/secession.** Chapter six of the Australian Constitution allows for the creation of new States. This has encouraged many to suggest that rural areas like the Riverina, Monaro and New England areas of New South Wales and the area of northern Queensland should be formed into new states. Another change proposed to the federation is that an existing state could leave the Commonwealth of Australia to form an independent country. This argument has most often been proposed in Western Australia and Queensland.

- **City 'states'.** Brisbane City Council offers a model which many believe would improve local government. Since 1925 this council has covered the whole metropolitan area of Brisbane. Other state capitals are governed at the local level by a number of councils. Some propose amalgamation of all metropolitan councils on the Brisbane model.

- **The ACT model.** Prior to self-government the Australian Capital Territory (previously called the Federal Capital Territory) was governed by the Commonwealth Government. At self-government a territory government was created to govern all of the territory. It has a single elected house—the Legislative Assembly from which its ministry is drawn. A level of local government was not created. Some advocate this as a suitable model for regional rather than state government in Australia.

- **Abolition of state governments.** This issue has been central to the constitutional debate in Australia and has been usually argued on political party lines. Although the issue was pursued vigorously during the Commonwealth governments of ALP leaders John Curtin and Ben Chifley, it was the Whitlam government from 1972 to 1975 that most recently pursued this agenda. In 1993 Bob Hawke said "Federalism is an anachronism" and referred to his Boyer Lectures of 1979 in which he advocated the abolition of the Crown, the Senate and the States. The abolition of the States is also supported by those who favour a powerful unitary government to deal with foreign governments and multinational companies.

- **Bioregional government based on environmental areas.** The establishment of the Murray–Darling Basin Commission and many smaller Catchment Management Committees have provided a basis for those who would argue that regions based on common environmental criteria should be elevated to political divisions. As the concern about the sustainability of agriculture in particular and life in general has become more widely developed, it has been advocated that solutions to the pollution of land, fresh water, coastlines and the air should take precedence over other government policies and political divisions.

- **Unitary government.** The political system of Great Britain has been a model for many in Australia who favour a more centralised, unitary government. Gough Whitlam, reviewing Sir Harold Wilson's memoir *The Governance of Britain*, commented

> *Harold Wilson...had four advantages not given to a Labor Prime Minister in Australia. He had no State Governments to worry about; he could not be obstructed by an Upper House; he could not be dismissed by the Crown or its representatives; and his legislation could not seriously challenged in the British courts.*
>
> **(*The Age*, Melbourne, 5 January 1977)**

A single government in Australia has the attraction of uniform legislation across all of Australia. Taxation, road rules, fees and charges would be the same. There would be less politicians and governments.

Discussion:

Should any of these proposals be incorporated into Australia's federal system? How could these changes be achieved?

• An historical simulation

One approach to considering the future of the federal system is to re-examine its birth. The kit entitled Your Constitution Your Say, developed by the Commonwealth Parliamentary Education Office and available from Education Media includes a simulation of the constitutional conventions of the 1890s where the differing interests and perceptions of the colonies were sufficiently resolved to allow the drafting of the Australian Constitution.

The simulation allows participants to play the parts of the colonial representatives as they had to consider what they would gain and lose from forming a federation. Would their national sentiment over-ride the possible economic losses to their colony? Where did their loyalties lie? What were their visions? Were they the mouthpieces of interest groups? How far did their personal ambitions determine their actions?

Even without the PEO kit, this simulation could be undertaken by a learning circle willing to prepare a report for each colony in the 1890s. These details would include:

- the area and population of each colony;
- the resources of each colony;
- the trade of each colony, both with its neighbours and overseas;
- the popular support for federation in each colony; and
- the need for defence.

If it is a successful activity then you could attempt a contemporary simulation of a Premiers Conference.

• End of session

This is the last part of your last meeting. It is time for reflection. What have you learned? Your learning should have covered two areas—the experience of learning in a learning circle and the subject area of Australia's federal system.

The experience of learning in a social and democratic environment may have been a new one for you. Adults bring many skills, experiences, knowledge and perceptions to their learning. These should have been re-enforced by this learning circle. Now you may choose to extend them further.

The learning circle should consider its future. Do you wish to meet again to complete sections of the kit which have not been discussed? Are there practical activities like visits to parliaments or local government chambers which people wish to do together? And finally, are there social activities which the group wish to experience? These could include watching a film or video, organising a dinner at someone's home or at a restaurant or having a picnic or barbeque at a site with some relevance to the learning circle. Of course, if planned ahead, one of these activities could be the focus of the last learning circle session.

This is also the time to acknowledge the work of the facilitator(s) and of the participants.

Finally, it is an opportunity for the whole group to contribute to the evaluation of the kit. Participants may wish to complete the evaluation form in the introductory folder individually or give their feedback to the facilitator to allow them to respond. Either way you will be helping ALA evaluate the kit. Thank you.

• Activities for active citizens

Your interest in learning more about Australia's three spheres of government may have been satisfied by this learning circle. That knowledge will influence your perceptions and actions as Australian citizens. You will be more informed voter. You will be able to make judgments about the policies of political candidates and their parties. Then you will be able to assess their performance as your representatives. But you may wish to be a more active citizen.

Some possibilities for more active citizenship are:

- campaigning for constitutional change;
- joining a political party;
- seeking election to one sphere of government;
- lobbying representatives individually by letter, fax, email or interviews;
- writing to newspapers to express your views;
- contributing money to interest groups which advocate your point of view;
- working as a volunteer for interest groups which you support;
- joining public demonstrations; and
- continuing to learn about issues of government by monitoring the media and interviewing other citizens.

Discussion:

You may wish to discuss your intentions in one or more of the above areas with the group. What do you plan to do and how are you going to do it? This may be an opportunity to discuss a proposal which affects the whole group. Alternatively, you may wish to interest just one or two other people in your course of action. Whatever you decide to do, good luck!

- Map of Australia

CE084397

ERIC

U.S. Department of Education
Office of Educational Research and Improvement (OERI)
National Library of Education (NLE)
Educational Resources Information Center (ERIC)

REPRODUCTION RELEASE

(Specific Document)

I. DOCUMENT IDENTIFICATION:

Title: DISCOVERING DEMOCRACY:

Author(s): NEIL GOW

Corporate Source: ADULT LEARNING AUSTRALIA

Publication Date: 2001

II. REPRODUCTION RELEASE:

In order to disseminate as widely as possible timely and significant materials of interest to the educational community, documents announced in the monthly abstract journal of the ERIC system, *Resources in Education* (RIE), are usually made available to users in microfiche, reproduced paper copy, and electronic media, and sold through the ERIC Document Reproduction Service (EDRS). Credit is given to the source of each document, and, if reproduction release is granted, one of the following notices is affixed to the document.

If permission is granted to reproduce and disseminate the identified document, please CHECK ONE of the following three options and sign at the bottom of the page.

The sample sticker shown below will be affixed to all Level 1 documents

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL HAS BEEN GRANTED BY

Sample

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

Level 1

☑

Check here for Level 1 release, permitting reproduction and dissemination in microfiche or other ERIC archival media (e.g., electronic) and paper copy.

The sample sticker shown below will be affixed to all Level 2A documents

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL IN MICROFICHE, AND IN ELECTRONIC MEDIA FOR ERIC COLLECTION SUBSCRIBERS ONLY, HAS BEEN GRANTED BY

Sample

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

2A

Level 2A

☐

Check here for Level 2A release, permitting reproduction and dissemination in microfiche and in electronic media for ERIC archival collection subscribers only

The sample sticker shown below will be affixed to all Level 2B documents

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL IN MICROFICHE ONLY HAS BEEN GRANTED BY

Sample

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

2B

Level 2B

☐

Check here for Level 2B release, permitting reproduction and dissemination in microfiche only

Documents will be processed as indicated provided reproduction quality permits.
If permission to reproduce is granted, but no box is checked, documents will be processed at Level 1.

I hereby grant to the Educational Resources Information Center (ERIC) nonexclusive permission to reproduce and disseminate this document as indicated above. Reproduction from the ERIC microfiche or electronic media by persons other than ERIC employees and its system contractors requires permission from the copyright holder. Exception is made for non-profit reproduction by libraries and other service agencies to satisfy information needs of educators in response to discrete inquiries.

Sign here, → please

Signature: Bates
Printed Name/Position/Title: MARGARET F BATES EXECUTIVE SUPPORT OFFICER
Organization/Address: ADULT LEARNING AUSTRALIA
PO BOX 308 JAMISON ACT 2614
AUSTRALIA
Telephone: 02 62517933
FAX: 02 62517935
E-Mail Address: info@ala.asn.au
Date: 05/12/02

(over)

III. DOCUMENT AVAILABILITY INFORMATION (FROM NON-ERIC SOURCE):

If permission to reproduce is not granted to ERIC, or, if you wish ERIC to cite the availability of the document from another source, please provide the following information regarding the availability of the document. (ERIC will not announce a document unless it is publicly available, and a dependable source can be specified. Contributors should also be aware that ERIC selection criteria are significantly more stringent for documents that cannot be made available through EDRS.)

Publisher/Distributor:
Address:
Price:

IV. REFERRAL OF ERIC TO COPYRIGHT/REPRODUCTION RIGHTS HOLDER:

If the right to grant this reproduction release is held by someone other than the addressee, please provide the appropriate name and address:

Name:
Address:

V. WHERE TO SEND THIS FORM:

Send this form to the following ERIC Clearinghouse:

However, if solicited by the ERIC Facility, or if making an unsolicited contribution to ERIC, return this form (and the document being contributed) to:

ERIC Processing and Reference Facility
4483-A Forbes Boulevard
Lanham, Maryland 20706

Telephone: 301-552-4200
Toll Free: 800-799-3742
FAX: 301-552-4700
e-mail: info@ericfac.piccard.csc.com
WWW: http://ericfacility.org

EFF-088 (Rev. 2/2003)